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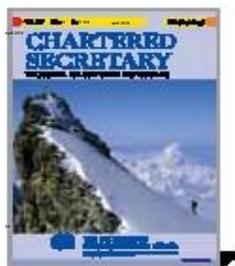


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- 01 > National Seminar on Secretarial Audit – CS Atul H. Mehta seen lighting the lamp. Others standing from Left: CS Ahalada Rao V, CS Venkata Ramana R, CS Issac Raj P G, CS Nagendra D Rao and B N Harish (RD, MCA, SR).
- 02 > National Seminar on Secretarial Audit - Atul H Mehta addressing. Others sitting from Left: CS Venkata Ramana R, CS Ahalada Rao V, B N Harish (RD, MCA, SR), CS Issac Raj P G and CS Nagendra D Rao.
- 03 > A view of the invitees, dignitaries and delegates.
- 04 > WIRC - National Conclave on Critical Issues of Securities Laws – CS Atul H. Mehta addressing. Others sitting from Left: CS Shilpa Dixit, CS Rishikesh Vyas, Atul Desai (Sr. Partner, Kanga and Company) and CS Sutanu Sinha.
- 05 > EIRC - Full Day Seminar on Empowering Women Together – Sitting on the dais from Left: CS Rupanjana De, CS Sunita Mohanty, Dr. Thankamani Kutty (renowned exponent of Bharatnatyam & Mohiniattam and Director, Kalamandalam, Kolkata (Chief Guest)) and CS Mamta Binani.
- 06 > EIRC - Half Day Workshop on CSR – Beyond Charity - CS Sunita Mohanty (addressing). Others sitting from Left: CS Rupanjana De, CS Mamta Binani, Barry J. Palmer (Chairperson, Lions Clubs International Foundation, USA), Debmalya Banerjee (Region Head, Eastern Regional Office, ASSOCHAM) and Lion A.P. Singh (Past International Director, Lions Clubs International).



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- 07 > WIRC – Women’s Day Seminar – CS Rishikesh Vyas presenting a bouquet to CS Mamta Binani while CS Makarand Lele Looks on.
- 09 > NIRC – Lucknow Chapter – Seminar on Contentious Issues in Corporate Laws - Sitting on the dais from Left: CS Subhash Chandra Tiwari, CS NPS Chawla, Dr. Lalit Varma ((IAS) Chief Guest), CS Ranjeet Pandey, Dr. S. Kumar (former Principal Director, ICSI) and CS Amit Gupta.
- 11 > NIRC – Ranchi Chapter – Seminar on Goods and Service Tax – Sitting on the dais from Left: Vandana Singh, Rajeev Ranjan, Suresh Seraphim (Addl. Commissioner, Commercial Taxes (Retd.), Jharkhand), Sanjeev Kumar Dixit and Puja Kumari.

- 08 > Meeting of ICSI delegation with Additional Secretary, MCA – Group Photo – Standing from Left: CS Alka Kapoor, CS Sutanu Sinha, Pritam Singh, IAS (Addl. Secretary, MCA) and CS Vineet K Chaudhary.
- 10 > SIRC – Kochi Chapter - Half day Seminar on Annual Reports and Investment Strategies - CS S. P. Kamath addressing. Others sitting on the dais from Left: CMA Padmanabhan C.S., Ravi Jain (National Stock Exchange, Kochi) - Speaker of the session on Investor Awareness, Deepesh M. U. (Asst. General Manager, SEBI, Kochi) and CAS. Ananthanarayanan (Capricorn, Hyderabad).
- 12 > WIRC – Bhayandar Chapter - Full Day Seminar - From Left: CS Manish Baldeva, CS Manoj Mimani, CA Anish Mehta, Faculty and CS Rakesh Gupta.



at a Glance

Articles

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Scope for Company Secretaries under the Companies Act 2013 :Whether Curtailed or Widened?



P-11

Vikas Khare & Anagha Anasingaraju

A lot has been said, written and done about the impact of the Companies Act 2013 on Company Secretaries – in practice as well as in employment. The Companies Act, 1956 is in the blood veins of many professionals. However, with the advent of Companies Act, 2013, which is a bit complex and a bit difficult to interpret, by and large the Company Secretaries have taken keen interest in learning and digesting the new law and therefore, they are forging ahead in comparison to other professionals. Thus the company secretary can take dominant position as expert of Company Law by creating niche in many areas. It is said “difficult road often leads to a beautiful destination” and in similar way difficult company law will lead the profession of CS to beautiful destination.

Analysis of Managerial Remuneration Provisions in the Companies Act 2013 with Specific Reference to Companies with "Inadequate Profits"



P-17

Vijay Krishnamurthy

The provisions relating to managerial remuneration in the Companies Act 2013 while more liberal than those of the Companies Act 1956, unfortunately carry forward the principal ambiguity relating to the definition of "inadequate profits" and the process required to be followed by companies with inadequate profits while paying managerial remuneration. The Companies Act 2013 is very clear that Central Government approval is required only when the aggregate managerial remuneration exceeds 11% of the net profits, so companies can reconsider their existing practice of seeking such approval when the remuneration paid to their MD/WTD/part-time directors exceed the individual sub-limits specified without exceeding the overall 11%. Apart from analysing the provisions relating to inadequate profits, this article also examines comprehensively the scheme of managerial remuneration under the new Act and highlights another issue relating to remuneration to part-time directors in the event of inadequate profits.

An Insight into the Corporate Social Responsibility



P-24

Dr B. P. Srivastava

The post globalization and economic liberalization period (1991

onwards) helped Indian companies grow rapidly and this made them more willing and able to contribute towards social cause. Accordingly Section 135 of the Companies Act, 2013 has aroused the conscience of the Corporates, especially the large ones for involving in inclusive growth of the society. Through this mandatory provision an endeavour is made in ushering the stakeholders in achieving the desired goal of the society. According to Indian Institute of Corporate Affairs, a minimum of 6,000 Indian companies will be required to undertake CSR projects in order to comply with the provisions of the Companies Act, 2013. Further, some estimates indicate that CSR commitments from companies can amount to as much as `20,000 crore.

Crowd Funding



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D.K. Sharma & Shilpi Singh

Crowd funding is the process of mobilization of funds from multiple investors through a web-based platform or social networking sites for a creative project, ventures or a social cause. It is a popular mode of raising funds in USA, UK but is at a developing stage in India. This article gives a brief overview of the process with specific reference to Indian regulatory framework in existence.

Overseas Listing by Indian Unlisted Companies



P-33

S. Sandeep

The Ministry of Finance vide Notification No. GSR 684.E. dated 11th October 2013, has amended the Foreign Currency Convertible Bonds (FCCBs) and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 thereby permitting unlisted Indian companies to list directly on overseas stock exchanges without having to go through the requirements of listing in India. The issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) (Amendment) Scheme, 2013 has come into effect from 11th November 2013. The MoF has permitted Indian unlisted companies to list their American Depository Receipts, Global Depository Receipts or Foreign Currency Convertible Bonds abroad on a pilot basis for two years without a listing requirement in India. In this backdrop, this article captures the key features of manner and procedure involved in the issuance of depository receipts.

Breach Of Contract And Its Consequences Under Indian Contract Act, 1872 : A Brief Overview



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Rajendra Sawant

A contract is the fountainhead of a correlative set of rights and





obligations of the parties and would be of no value if there is no statutory provision for compensation for damage or loss caused to the aggrieved party by reason of breach of the contract by the other party. Chapter VI of the Indian Contract Act, 1872 provides the remedy to the non defaulting party to contract by way of compensation for damage or loss caused due to breach of contract by the other party. Section 73 provides for compensation for actual damage or loss from the party in breach of the contract. Section 74 provides that the parties to the contract may agree at the time of contracting that, in the event of breach, the party in default shall pay a stipulated sum of money to the other, or may agree that in the event of breach by one party any amount paid by him shall be forfeited. If this sum is genuine pre-estimate of damage likely to flow from the breach it is called 'liquidated damages'. Reasonable liquidated damages are payable without proof of loss. If it is not genuine pre-estimate of the loss, but an amount intended to secure performance of the contract, it may be called as 'penalty'. However mere stipulation of penalty in the agreement does not give right for compensation by way of penalty. The party claiming penalty, have to prove the loss or damages caused by breach of the contract.

resulted in a final decision taken by the competent authority in terms of Article 77(3) of the Constitution and the decision so taken is communicated to the concerned person, the same was not capable of being enforced by issuing a direction in a writ petition. [SC] LW: 37:04:2015 The principle of 'last come first go' should have been strictly adhered to by the appellant-Company at the time of issuing retrenchment notice served upon the concerned workmen as provided under Section 25G of the I.D. Act.[SC] LW: 38:04:2015 Courts cannot step in with respect to the policy decisions with respect to administration of an organization.[Del]

Legal World

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▶ LW: 30:04:2015 The fact that the orders of **status quo** were granted by the Chamber Judge during vacation, which have been continued from time to time without further consideration regarding the tenability of such orders, is no ground for continuing such orders. In the circumstances, we deem it appropriate to set aside the impugned order. [SC] LW: 31:04:2015 If the Regional Director nurtures any doubt **qua** any of the clauses in the scheme, including the date chosen as the appointed date, and finds that the same is contrary to law or apprehends that on the strength of such a clause contained in the scheme, the Company, after obtaining sanction from the Court, may use or misuse the same for contravention of any law including the provisions of the Income Tax, he is entitled to voice his doubt/apprehension before the Court, and it is always open to the Court to consider the doubt/apprehension expressed by the Regional Director and pass necessary orders either rejecting the scheme or sanctioning the same with/or without necessary clarifications.[Bom] LW: 32:04:2015 CCI dismisses complaint against CRISIL. LW: 33:04:2015 CCI dismisses complaint against Kent RO water purifier systems. LW: 34:04:2015 We have arrived at the conclusion that the courts in India will not have jurisdiction, in international arbitration, as there is implied exclusion.[SC] LW: 35:04:2015 The High Court has erred in law in going into the factual aspects of the matter which were not admitted between the parties.[SC] LW: 36:04:2015 Unless the minutes of meeting

From the Government

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▶ Companies (Management and Administration) Amendment Rules, 2015 Companies (Meetings of Board and its Powers) Amendment Rules, 2015 Companies (Share Capital and Debentures) Amendment Rules, 2015 Companies (Removal of Difficulties) Order, 2015 Clarification with regard to section 185 and 186 of the Companies Act, 2013 - loans and advances to employees -reg. Clarification relating to filing of e-form DIR-11 & DIR-12 under the Companies Act, 2013 - regarding Establishment of connectivity with both the Depositories NSDL and CDSL - Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2015 Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2015 Securities and Exchange Board of India (Buy-back of Securities) (Amendment) Regulations, 2015 Securities and Exchange Board of India (Issue and Listing of Debt Securities (Amendment) Regulations, 2015 Research Analyst Examination : Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2015 Common Derivatives Certification Examination : Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 SARAL Account Opening Form for resident individuals Securities Contracts (Regulation) (Amendment) Rules, 2015

Other Highlights

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 ▶ Certificate of Practice Issued / Cancelled
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 ▶ News From the Regions
 ▶ Company Secretaries Benevolent Fund
 ▶ Our Members



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1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
2. The article must be original contribution of the author.
3. The article must be an exclusive contribution for the Journal.
4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
8. The copyright of the articles, if published in the Journal, shall vest with the Institute.
9. The Institute/the Editor of the Journal has the sole discretion to accept/reject an article for publication in the Journal or to publish it with modification and editing, as it considers appropriate.
10. The article shall be accompanied by a summary in 150 words and mailed to ak.sil@icsi.edu
11. The article shall be accompanied by a 'Declaration-cum-Undertaking' from the author(s) as under:

Declaration-cum-Undertaking

1. I, Shri/Ms./Dr./Professor..... declare that I have read and understood the Guidelines for Authors.
2. I affirm that:
 - a. the article titled "....." is my original contribution and no portion of it has been adopted from any other source;
 - b. this article is an exclusive contribution for Chartered Secretary and has not been / nor would be sent elsewhere for publication; and
 - c. the copyright in respect of this article, if published in Chartered Secretary, shall vest with the Institute.
 - d. the views expressed in this article are not necessarily those of the Institute or the Editor of the Journal.
3. I undertake that I:
 - a. comply with the guidelines for authors,
 - b. shall abide by the decision of the Institute, i.e., whether this article will be published and / or will be published with modification / editing.
 - c. shall be liable for any breach of this 'Declaration-cum-Undertaking'.

(Signature)



**Progress is often equal to the difference
between mind and mindset.**

– N R Narayanamurthy



Dear Professional Colleagues,

In a knowledge driven society, professionals have to come to the terms and high expectations of dynamic business and regulatory environment and all the stakeholders of society. Litmus test lies in policies, processes and practices of the professionals that conforms to the highest standards of professionalism. It is not the load that breaks one down, it is the way one carry it. Ability is what the professionals are capable of doing, the motivation determines what they do. It is the attitude that determines the altitude to which a professional could reach. It is the attitude and not the aptitude that determines the altitude of a professional. The success of a profession depends on the attitude of its members. All limits are self-imposed. We need major breakthroughs in all spheres of our activities and for that we have to go beyond the obvious, we have to expand in newer and non-core areas, to cultivate them and to master them.

While the opportunities for the profession are in ample quantity, the primacy demands it to have a right mind-set to make use of the opportunities. To my mind the right mind could be amalgam of competency, sharing and caring for fellow professionals, understanding the business dynamics, professional foresight, diligence in carrying out the assignments, continuing education, adaptability to situation, ability to carry out a task in real time and optimal manner, professional ethics and so on.

In fact, mind-set is often referred to as fixed mind-set v. growth mind-set. Many of us are living in fixed mind-set and living in our comfort zones and the opportunities look threatening rather than challenging. People having growth mind-set believes in

development of mind-set through conscious development of self through training, perseverance, interest etc.

Secretarial Audit is much talked about, since it demands challenging professional output, considering its versatility. While the common compliances are taken care of under legislative framework covering Companies Act, 2013; listing agreement and other capital market regulations; the industry specific compliances need to be addressed specifically. In this regard, the Institute has been conducting capacity building programmes for Members and Students through Regional Councils and Chapters in addition to National Seminar on Secretarial Audit and other capacity development programmes. I would like to inform you the programmes conducted by the Institute through various Regional Offices and Chapters and I compliment them for their initiatives in building the capacity of our Members.

Hyderabad Chapter organized a National Seminar on Secretarial Audit on 4th March 2015 covering Genesis and Concept of Secretarial Audit, Requirement of Section 204 of Companies Act 2013 and Rules there on, Manner of Appointment and Role & Responsibility; Audit Practices & Analysis of Financial Statements and Identification of Violation of Corporate Laws and Loans and Related-Party Transaction and Audit Approach.

Further, on 4th March 2015, I took an opportunity to meet the Members at Hyderabad and discussed matters pertaining to Secretarial Audit and introduction of relevant Certificate courses for quality performances. I also met the students and advised them





From the President

to update on regulatory developments and the developments that concern the profession of Company Secretaries.

The Rajkot Chapter organised a full day Seminar on Secretarial Audit on March 7, 2015. Rajkot Chapter also organized a Seminar for Students on “Knowledge–Skills –Visibility” on 8th March, 2015.

The Institute organized a National Seminar on Secretarial Audit – A Panacea for Good Governance in association with FICCI on March 27, 2015 at New Delhi covering Secretarial Audit: Giving comfort to Board on Compliance Management; Audit Principles applicable to Secretarial Audit, Reporting on Fraud; Secretarial Audit – Ensuring compliance of SEBI Regulations; Secretarial Audit – Ensuring compliance of other applicable laws including sector specific laws. Similar seminars were also organised by Regional Councils and Chapters.

The Companies Act, 2013 has mandated in section 118(10) that every company shall observe secretarial standards with respect to General and Board Meetings specified by the Institute of Company Secretaries of India and approved as such by the Central Government. Accordingly, the Institute has submitted to the Ministry of Corporate Affairs the Secretarial Standard on Meeting of Board of Directors (SS1) and the Secretarial Standard on General Meetings (SS2) for approval. We are awaiting the Central Government’s clearance and then the same would be notified.

I would like to thank the Ministry of Corporate Affairs for issuing the much awaited clarification, which the Institute had also taken up with the Ministry, regarding the applicability of the Companies (Acceptance of Deposits) Rules, 2014 on the amounts received by private companies from their members, directors or their relatives before April 1, 2014. I expect that the Ministry would be issuing clarifications with regard to other aspects of the Companies Act, 2013 where difficulty is being faced in its implementation.

The Institute has started Massive Open Online Course (MOOCs) and videos on areas/soft skills have been uploaded in this regard. The Institute is also preparing a Referencer/Guidance note on conducting Secretarial Audit with focus on sector specific laws in

order to guide the secretarial auditor to conduct audit of other laws as may be applicable specifically to a company. The Guidance Note will contain an indicative list of central legislations for certain industry sectors and checklists thereon. In this connection, the Institute has also invited expression of interest from companies offering corporate compliance management solutions to provide compliance checklist of various laws applicable to the companies.

I am pleased to inform you that the Managing Committee of Company Secretaries Benevolent Fund (CSBF) organised a “Cultural Evening” on 14th March, 2015 at the Air Force Auditorium, New Delhi to further strengthen the corpus of the Fund. The event followed the grand success of Cultural evenings organised earlier on 9th January, 2010 and 12th January, 2013. The programme resulted in creating greater awareness of CSBF and 25 members of the Institute were admitted to the Fund at the event. Besides that a sum of over Rs. 25.00 lacs was mobilised through the event. I appeal to all members who are not yet become the members of CSBF, to join the fund, to expand the umbrella of benevolence.

I am pleased to share with you that the Institute has decided to organise 10th International Professional Development Fellowship Programme-2015 from June 13 to June 21, 2015 covering the visit to Finland, Sweden and Denmark. The details of the programme will be hosted on the website of the Institute shortly.

As change is the only certain thing, we the governance professionals should continuously look out for changes. As the growth of information technology and digital technology is facilitating greater exposure, speedy response and technology savvy operations, we have to really adapt to technological developments constantly to excel in terms of efficiency, performance, and competitiveness.

With kind regards,

March 31, 2015.

Yours sincerely,

(CS ATUL H MEHTA)
president@icsi.edu

ICSI ANNOUNCES

10th INTERNATIONAL PROFESSIONAL DEVELOPMENT FELLOWSHIP PROGRAMME – 2015

Covering the destinations of Finland – Sweden - Denmark
13th June, 2015 (Saturday) to 21st June, 2015 (Sunday)
(Details will be uploaded on the ICSI website shortly)

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Scope for Company Secretaries under the Companies Act 2013: Whether Curtailed or Widened?

- ▶ A lot has been said, written and done about the impact of the Companies Act 2013 on Company Secretaries – in practice as well as in employment. This article tries to evaluate the scope for Company Secretaries to find out whether it has reduced as alleged / apprehended or has increased the scope with diverse opportunities opening up.

Change is the only constant! This is true even we reach Pinnacle.

Life, in a dynamic environment presents us with many challenges and opportunities. It is totally up to us whether to take them and forge ahead in a life or ignore them by living in a status quo and stagnated, mediocre life style.

RESPonSE To ThE ChAnGE by PROfESSIonAIS

Professional weather is always fast changing. It can have clear and blue sky or it may become turbulent. We as professionals are trained to face any kind of professional eventuality. We are trained to face everyday challenges and come out of it with flying colours. We are expected to behave in a manner befitting a professional. Historically we were and are conscience keepers rather than mere solution providers and we have to continue to follow the role of conscience keepers though there is a change and change is frequent.

*Immediate past Vice President, ICSI.

ThE ChAnGE CALLED ThE CoMPAnIES ACT 2013

Before the Companies Act 2013 became the law of the land, a lot was said about widening the scope for Company Secretaries. New areas for of practice were expected. The various drafts of the Bills / committee reports also gave a lot of hope to aspiring students to





Article

SCOPE FOR COMPANY SECRETARIES UNDER THE COMPANIES ACT 2013: WHETHER CURTAILED OR WIDENED?

➤ The Companies Act 2013 has opened many avenues for company secretaries which may not appear to be so being served on a platter but which need to be looked for in different provisions of the Act. These opportunities may not be the ones which are easily available. We need to upgrade our knowledge, skill sets and build capacities for grabbing the opportunities.

take up the profession.

When the Act and the Rules thereunder were actually brought into effect, certain unexpected changes were brought about, which led to a lot of uncertainty, unrest and volatility in the minds of certain professionals as well as students.

After putting in a lot of efforts, all of us are glad that some of the recognitions which were lost were restored.

However, the jury is still out on the question whether the Companies Act 2013 has reduced the scope for Company Secretaries or has enhanced the scope. This article tries to discuss this aspect, which is very dear to a Company Secretary today.

RoIE of AnD oPPoRTUnITIES foR A CoMPAnY SEcREtARy UnDER ThE CoMPAnIES ACT 2013

Traditionally, a company secretary was and is always expected



to be part of the board room, for writing minutes of the meetings and was expected to be a conscience keeper of the board. It is the duty of a company secretary to tell the board of directors about the right and wrong of governance. While being in practice, the company secretary carries out a similar role, which is more advisory in nature. This in itself is a huge responsibility, since the company secretary is one of the officers in default and as has been seen in a number of judgments, the company secretary has been held responsible for certain lapses.

All throughout, we as company secretaries have always been looking for a scope beyond the traditional role of convening and conducting meetings and minutes writing. It is also widely believed that for a company secretary to be employable, an additional degree in law or finance is a must. There are many of us who want to come out of the box and play diverse roles in different functions, give value added services and take more active part in the management and decision making of the company.

All of us have been looking for new avenues and recognitions towards this end. All of us strive to be self-sufficient. We need to believe that there is more to the profession of a company secretary than merely writing minutes, certification of forms and issuing compliance certificates.

The Companies Act 2013 has opened many avenues for us which may not appear to be so being served on a platter but which need to be looked for in different provisions of the Act. These opportunities may not be the ones which are easily available. We need to upgrade our knowledge, skill sets and build capacities for grabbing the opportunities.

In this Article, we have tried to cull out new areas opened by the Companies Act, 2013 for company secretaries in which they can prove their mettle. These areas co-exist with the traditional role of a company secretary.

1. Section 2 (38) "Expert": Company Secretary can act as an expert for issuing certificate in pursuance of any law. The corporate world is exposed to a large number of laws. CS curriculum has equipped us to understand these laws and act as an expert giving advisory services under these Acts.
2. Incorporation of One Person Company (Section 3): There is an express provision for formation of OPC which gives obvious advantage of limited liability to a proprietor without much complication of compliances. It is possible to explain to the proprietors who are presently carrying on small and tiny business activities and give them benefit of limited liability. Company Secretaries can play a role in conversion of closely held companies into OPCs and promoting this new form of organisation.
3. Re-drafting of Articles of Association (Section 5): In order to realign the provisions of the Articles of Association of





➤ **Company Secretaries can render advisory services regarding compliances with provisions about related Party Transactions. Typically, sections 180 to 189 need to be properly understood and complied with specific reference to AS 18. The definitions of holding and Subsidiary company, Associate company and related parties are required to be properly interpreted and understood.**

existing companies with the provisions of Companies Act 2013 and to remove the anomalies and controversies, it is always desirable that the contents of the Articles are revisited to ensure that they are in harmony with the law. Similarly, entrenchment provisions can be inserted so also provisions about compulsory acquisition of shares. (Section 236).

4. Acting as Depositor Trustee (Section 76): Rule 7 of Companies (Acceptance of deposits) Rules, 2014 has provided for appointment of trustees for secured deposits. Sub rule 3 of Rule 7 provides for the qualifications / dis-qualifications of a depositor trustee. Rule 8 provides for the duties of trustees. A professional like company secretary is best suited to discharge these duties which primarily include ensuring that the assets of the company which are offered as security are protected, the contents of the advertisement are in compliance with the law, the company complies with the covenants and generally to protect the interest of the depositors.
5. Signing of annual return (Section 92): All companies except OPC and small companies are now required to get their annual return signed / certified by a practicing company secretary. The new format of the annual return is quite exhaustive and the data required to be disclosed therein needs to be carefully culled out of the system. The contents of Annual return Form MGT-7 covers all the 33 points of the compliance certificate u/s 383A of Companies Act 1956.

This means that the closely held companies which were earlier not required to obtain a compliance certificate from a PCS would now require their annual returns to be signed by a PCS. And this is an exclusive recognition. This in effect means that the scope of PCS has vastly improved, be it maintenance of records for such companies, providing retainer services and giving quality input. In case of small companies and OPC, this return may be signed by the company secretary in employment. This again is an exclusive recognition. Further,

since the information being disclosed in the annual return is being certified by the PCS as true and correct, the PCS may demand fees as for issue of compliance certificate. The verbs "to sign" and "to certify" mean the same thing in the present context of section 92 of Companies Act 2013 and relevant Rules. The reason being that signature of PCS is supposed to be at the end of various certificates which form an integral part of the prescribed form.

6. Certification of annual return (Section 92): All listed companies and all companies with paid up capital Rs. 10 crores or more or with a Turnover of Rs. 50 crores or more are required to get the Annual return certified from PCS. Under the Companies Act 1956, only annual returns of listed companies were to be certified by a PCS.
7. Framing of CSR Policy (Section 135): Company Secretaries can play an advisory role in drafting and framing of the CSR Policy and also render the services of monitoring the end use of the contributions made by the corporate. A proper MIS may be devised to give feedback to the board of directors about utilization of the funds on the objects as per Schedule VII. Here is an occasion to incorporate section 8 companies, be on the board of such companies and act as a reliable conduit through which funds flow for the common cause and protection of public interest.
8. Appointment as internal auditor (Section 138): The Board of Directors has been given a liberty to select any professional for the purpose, which includes a company secretary. Company secretaries need to prove their mettle to be recognized as internal auditors by honing their skills. There is no reason why PCS should not be called as expert in accounts, audit processes and Taxation.
9. Appointment as resident / independent director (Section 149): A company secretary may be appointed on the board of directors as a resident director or as an independent director.





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Here, the PCS have a very good scope in offering their services as resident / independent directors at handsome fees which the companies are most willing to pay for the right candidate. The appointment needs to fit in the realms of the code of conduct. Needless to say that CS accepting such position has to ensure about due diligence of the legal compliances by the company so has to prove that he / she acted in good faith with due care and diligence. Public Companies having paid up share capital of Rs. 10 crores or more or having turnover of Rs. 100 crores or more or having in aggregate, outstanding loans, debentures and deposits exceeding Rs. 50 crores are required to appoint independent directors.

10. Appointment as women director (Section 149): Similar is the case for women directors. Many PCS as also the CS in employment may avail this opportunity to act as women directors on the board of reputed companies. This provision is applicable to every listed company and every other public company having paid up share capital of Rs. 100 crores or more or having turnover of Rs. 300 crores or more.
11. Group restructuring (Section 180 to 189): Company Secretaries can render advisory services regarding compliances with provisions about related Party Transactions. Typically, section 180 to 189 need to be properly understood and complied with, with specific reference to AS 18. The definitions of Holding and Subsidiary company, Associate company and related parties are required to be properly interpreted and understood. There were occasions in the past where a typical group of industries would have several public limited companies so as to get out of the need to obtain prior government approval under section 297 of Companies Act 1956. It is expected that private limited companies would be kept out of the rigors of number of sections (draft notification is already placed for approval). Hence, it makes sense to restructure various groups keeping in mind the restrictions on inter corporate transactions.
12. Company Secretary as KMP (Section 203): This is a double edged sword. Company secretaries in employment have been given the status of a Key Managerial Personnel along with the CEO, MD and CFO. Out of all the positions of KMP, only the position of Company Secretary is educational qualification based appointment whereas CEO, MD and CFO need not have any specific educational qualification. This in itself presents a huge responsibility on the Company Secretary to do his duties diligently. Further, the Act also lists out the duties of a company secretary, which till now were not defined.
13. Secretarial audit (Section 204): This may arguably be said to be one of the biggest boons of the new Act. All listed companies, unlisted public companies with paid up capital of Rs. 50 crores or more or with turnover of Rs. 250 crores or more are required to obtain a secretarial audit report from a Practicing Company Secretary. The scope of the secretarial audit is wide enough to justify the good amount of fees which

a PCS deserves to be paid. Under the residuary clause, one needs to cover the relevant applicable laws to a particular industry. In future, this may also pave the way for exclusive labour law audit to CS. In order to carry out the secretarial audit, one needs to build a team to first develop the checklists and verify the compliances. It is desired that mega firms are constituted so as to have in house expertise available on different statutes.

14. Functions of CS (Section 205): Section 205 of the Companies Act 2013 read with the Companies (Appointment and Remuneration) Rules, 2014 have outlined the duties of a company secretary. Earlier nothing of this sort was recognised formally. This has provided an opportunity to the company secretaries in employment to prove their relevance and to play an important and effective role in the governance and management of the companies. Removal of KMP, which includes CS in employment is possible only by Board resolution. This has given appropriate protection from discriminatory removal.
15. Expert for SFIO (Section 211): As contemplated by section 211(2), Serious Fraud Investigation Office is to consist of experts in corporate affairs, capital markets, taxation etc. Company Secretary is well equipped to be on the panel of experts with all these abilities and expertise.
16. Certification in the process of M & A (Section 232): A company in relation to which the order approving the scheme of restructuring is passed, is required to file a statement every year duly certified by a practicing professional. PCS can undertake such assignments of certifying that the scheme is being complied with, in accordance with the orders of the Tribunal.
17. Class Action Suits (Section 245): Apart from appearing before NCLT, Company Secretary can act as an advisor to investor





associations and deposit holders in making them aware of their rights including filing of class action suits. Class action suit is a new concept under the Companies Act 2013 and would go a long way in investor protection. It would be a yeomen's service by CS to the investor class against the mischievous companies.

18. Appointment as registered valuers (Section 247): Company Secretaries need to acquire experience and expertise in valuation. This is a highly respected and niche area where not many company secretaries have ventured. The Act gives company secretaries the opportunity to act as registered valuers. There are number of occasions where valuation of shares / enterprise is necessary. Some such events are issue of further shares, buy back of shares, M & A, takeovers and settlement of disputes between shareholders. It would be desirable that necessary special training and skills are acquired by company secretaries so as to discharge the duties as valuer. As is always said, valuation is an art and not a science and the discretion in the exercise is to be applied by a professional and hence his skill sets and credibility matter a lot.
19. Acting as administrator (Section 259): NCLT is empowered to appoint administrator in the process of revival of sick companies. Company Secretary is eligible to get himself empanelled for the purpose. Administrator is supposed to do anything and everything for the revival of the sick company within the four corners of the law and directions from NCLT. Apart from getting good amount of fees, it would be a matter of great mental satisfaction if one is in a position to be a part of the process of revival of a sick company, which would ensure continuous employment to the workers and business to the suppliers, revenue to the government and contribution to the GDP for the Nation.
20. Acting as liquidator (Section 275): As per Sub section 2 of section 275, Central Government is required to maintain a panel of professionals to act as provisional liquidator or company liquidator. The liquidator has substantial powers and can contribute a lot in timely and effective manner in making highest recoveries by disposing the assets and discharge liabilities to the maximum extent so as to enable the corporate world to prevent delays in liquidation of companies.
21. Appearance before NCLT: This is a huge area of practice open for company secretaries with the possible establishment of NCLT and NCLAT. All company law related matters will now be heard by the NCLT and its Appellate Tribunal (after the relevant sections come into force). This includes matters pertaining to prevention of oppression and mismanagement, compromises, arrangements, mergers, amalgamations, winding up, revival of sick companies. Company secretaries who have soft skills can establish themselves as such. Earlier PCS was not allowed to appear before High Court in the

matters of mergers and Amalgamations.

22. Special Courts (Section 435): It is proposed that Central Government, to ensure speedy trial of offences under the Companies Act 2013 would establish special courts. Company secretaries can effectively help in drafting of pleadings and preparing arguments in matters before the special courts, even though not allowed to appear and argue the matters in such courts.
23. Membership of mediation panel (Section 442): Company secretaries can be part of alternate dispute resolution and provide these services to their clients. Mediation is one of the best methods of resolving the disputes. It is experienced that this is a very cost effective and quick remedy.
24. Acting as scrutinizer: Company Secretaries can now play an important role in the proper conduct of the e-voting and postal ballot process by acting as a scrutinizer in the interest of shareholders' democracy.
25. Advisor to other professionals: Company Secretaries, due to their legal analytical abilities, have an edge in understanding, interpreting and applying the law to real life situations. They can act as advisors to other professionals like chartered accountants in restructuring their firm structure and streamlining their services with the changes in section 139 and insertion of restrictions through section 144 of CA 2013.
26. Advisors to independent directors (Schedule IV): Company Secretaries can play a role in making the function of independent directors more effective. As contemplated by para III about Duties of Independent Directors in Schedule IV, it has been provided that the independent director shall take and follow appropriate professional advice and opinion of outside experts at the expense of the company. There may arise a number of situations where the questions may be raised about the legality / fairness / reasonableness of a particular decision which would largely depend on the interpretation of





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statutes and judgments. Company Secretary can certainly assist the independent director in his taking appropriate view.

27. Legal audit / due diligence: Since the penalties under the Companies Act 2013 have increased manifold, many corporates / independent directors are interested in checking the compliance level in their organization. Quite often, independent directors insist on verification of legal compliances by a professional. There is a tremendous scope for carrying out legal audit and due diligence of compliances with corporate laws. Such assignments can be one time or continuous or a combination of both.
28. Devising statutory compliance calendar: There are two types of compliances under the Companies Act 2013 – event based and periodical. Filing of forms like PAS-3, CHG-1, CHG-4, MGT-14, DIR-12 are event based while forms 23AC/ACA and 20B (for the time being) are periodic. After studying the facts peculiar to a company, a company secretary can devise a compliance calendar so that the concerned officers who are responsible for the compliances are given warnings sufficiently in advance before the due date and penalties and other consequences are avoided. Generating such Calendar is a good assignment that can be undertaken by CS. Such Calendars can also include compliances under other laws like labour laws, indirect and direct taxes and other commercial laws.
29. General advisory services on various provisions of the Act: Since often referred provisions like calling of meetings, issue of further shares, acceptance of deposits have undergone a substantial change, this opens a good avenue to act as advisors for even existing established companies with systems set under Companies Act 1956. Such established systems now are required to be changed. There are some ambiguities and anomalies in the provisions of Companies Act 2013 for example, Directors Disqualification sec. 164(2) and 167- how to get out?, Subsidiary of a foreign Company- whether Private or Public?, Sec 185- and 186, Public Deposits- Insurance cover presently not available, concept of ordinary course of business and arms' length. Drafting of directors' report is no more a mundane job. The old templates have become redundant. Many more disclosures are required in the directors' report. One really has to go through the history and geography of the company and review the critical events in the year; then and then only one can properly draft the directors' report. (Section 134)
30. Facilitator for Video conferencing: There is an enabling provision in the act for holding meetings through video conferencing. The norms are strict. It is possible for a PCS to make available on hourly basis the software required for conducting meetings through video conferencing including recording facility.
31. Setting up of vigil mechanism and Drafting whistle blower policy: This has now become mandatory for Listed Companies and all

companies which accept public deposits or have Bank borrowings in excess of Rs.50 crores. These companies are required to set up a vigil mechanism, the details of which are to be published on the website of the company and also mentioned in Board's report. A company secretary can play a critical role in setting up vigil system and drafting whistle blower policy.

32. Presentations on Companies Act: This in itself can be one of the areas of practice for experienced company secretaries for next few months. There is a need to create awareness amongst the business circles and corporate world. Joint programs can be organized with Chambers of Commerce, Trade Associations, Investor Association for dissemination of knowledge so as to create awareness about the new provisions. If a company secretary has the right approach, has good understanding of provisions of law and has decent presentation skills, the CS can excel in this area.

The above list highlights the need for Mega and Multi-disciplinary firms. Companies look for firms where such diversified and quality services are provided under one roof. We sincerely believe that there is a tremendous scope for company secretaries who are willing to learn, experiment, update and upgrade themselves. We need to think beyond boundaries, convert challenges into opportunities and equip ourselves to deal with the situation. The effects are long term. And definitely, sky is the limit.

It is for us live up to the expectations of the government and the industry. It is true that statutory recognitions do help the profession to grow; at the same time, the professionals must match the expectations of the stakeholders. Risks need to be taken. Responsibilities need to be shouldered. That is how further opportunities come our way. Let us be a catalyst to bring about a change in the mindset of corporate world, make them understand the advantages of following principles of good governance. Let us add value by advising on processes to be followed and care to be taken to avoid potential disputes and contraventions, which in turn will help the business to achieve sustainable growth.

The Companies Act, 1956 is in the blood veins of many professional. However, with the advent of Companies Act, 2013, which is a bit complex and a bit difficult to interpret, by and large the Company Secretaries have taken keen interest in learning and digesting the new law and therefore, they are forging ahead in comparison to other professionals. Thus the company secretary can take dominant position as expert of Company Law by creating niche in the 32 areas listed above. It is said "difficult road often leads to a beautiful destination" and in similar way difficult company law will lead the profession of CS to beautiful destination.

Life – personal or professional - means being innovative, creative and striving to achieve something which makes it all worthwhile! Let us all gear up for the change, by making changes in our outlook, thinking big and believing that we can make a difference as a

classy profession of CS!

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Analysis of Managerial Remuneration Provisions in the Companies Act 2013 with Specific Reference to Companies with "Inadequate Profits"

- The managerial remuneration provisions in the Companies Act, 2013 do not suffer from any transitional or implementation issues as the provisions in the Companies Act, 1956 have been largely carried forward in the new Act with some additional liberal provisions and thus are unlikely to be revised in the current phase of setting right the inconsistencies in the various provisions of the Act. What therefore is being highlighted here is the exact scope of the new managerial remuneration provisions and the limited need to approach the Central Govt. for its approval.

THE PROPOSITION: CENTRAL GOVERNMENT APPROVAL REQUIRED IN VERY LIMITED CASES

The article seeks to highlight that on a plain reading of the provisions relating to payment of managerial remuneration, it is unnecessary for companies to approach the Central Government for approval except when the total managerial remuneration (i.e. payable to all the directors put together) exceeds 11% of the net profits in a financial year, computed in the specified manner. This proposition would hold, notwithstanding that the managerial remuneration paid to any category of directors exceeds the





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individual ceilings specified, so long as the total remuneration payable to all the directors does not exceed 11%. Extending this logic further, where the total managerial remuneration payable to all the directors collectively does not exceed the aforesaid 11%, the action of the Central Government, according approval for payment of managerial remuneration to any category of managerial personnel that exceeds the individual ceilings specified thereagainst, is without legislative sanction. And as a corollary, any application for such approval is non est factum and void because it is not statutorily required.

This proposition is contrary to the practice followed by several companies (under corresponding provisions of the Companies Act, 1956), to apply for approval to the Central Government, when the remuneration payable to its directors exceeded the sub-limits specified relating to that category of directors (even though the overall remuneration payable to all the directors did not exceed 11%). With a view to highlighting the issues involved, the managerial remuneration provisions under the new Act have been analysed hereunder.

It needs to be noted that the managerial remuneration provisions in the Companies Act 2013 do not suffer from any transitional or implementation issues (as the provisions in the Companies Act, 1956 have been largely carried forward in the new Act with some additional liberal provisions) and thus are unlikely to be revised in the ongoing phase of setting right the inconsistencies in the various provisions of the Act. What therefore is being highlighted is the exact scope of the new provisions relating to managerial remuneration in the Companies Act, 2013 and the limited situations when the Central Government, approval is required.

KEY FEATURES of The MANAGERIAL REMUNERATION PROVISIONS

The provisions relating to managerial remuneration in the Companies Act, 2013 are contained in Chapter XIII (Sections 196 to 205) read with Schedule V. The key provisions relating to managerial remuneration are as follows:

- S-196 – relates to the conditions for appointment of a managing director (MD) or manager and whole-time directors (WTD). Appointment of part-time directors are outside the scope of this section. The section applies to both private and public companies. This section has to be read along with Part I of Schedule V. This section requires the appointment to be approved at a Board Meeting (not by circulation), the notice of which has to contain complete details of the profile of the appointee and the details of the remuneration proposed and which needs to be subsequently approved by the members in general meeting by an ordinary resolution (unless under the Articles of the company or the terms of any loan agreement, a special resolution is required) and a return needs to be filed with the Registrar of Companies within 60 days of the

appointment, duly certified by any of the prescribed categories of professionals specified in the section. If the appointee does not comply with the conditions of appointment specified in Part I of Schedule V, central government approval is additionally required;

- S-197 – relates to the remuneration payable to the managerial persons. Unlike S-196 which deals with the MD or manager and WTD, S-197 deals with the remuneration payable to all categories of directors i.e. including part-time directors also. Also, unlike S-196, this section applies only to public companies (i.e. whether listed or unlisted) and excludes private limited companies. Thus, private limited companies are free to pay any amount of remuneration to their managerial personnel, irrespective of whether they have adequate or inadequate profits or losses;
- S-198 specifies the manner of computation of profits in a financial year, for the purpose of applying the ceilings prescribed for payment of managerial remuneration. Certain items of income/credits and expenses/debits are to be included/excluded, as indicated in the section.

The following are noteworthy:

- i. Section 197(1) states that the managerial remuneration paid cannot exceed 11% of the net profits of the company (computed in the manner prescribed in S-198);
- ii. The first proviso states that managerial remuneration exceeding 11% can be paid subject to the provisions of Schedule V, if the shareholders and Central Government, approval is obtained;
- iii. The second proviso to S-197(1) states that except with the approval of the company in general meeting (which approval by shareholders can be by ordinary resolution unless under the Articles of the company or the terms of any loan agreement, a special resolution is required) a company cannot pay:
 - to any one MD or manager or WTD – more than 5% of the net profits;
 - to more than one MD or manager and WTDs put together – more than 10% of the net profits;
 - to all the part-time directors, where there is no MD or manager or WTD – more than 3% of the net profits;
 - to all the part-time directors, where there is a MD or manager or WTD – more than 1% of the net profits

Therefore it is apparent from a plain reading that S-197 provides for a three tier approval process viz.

- a. Payment within any of the sub-limits specified in the second proviso to S-197(1) – Board can approve under its powers at its meeting;
- b. Payment exceeding any of the aforesaid sub-limits but not exceeding the aggregate limit of 11% of the net profits – Board





➤ A company having nil or inadequate profits can pay managerial remuneration either in accordance with Schedule v or with the Central Government approval if the remuneration payable is not in accordance with Schedule v (e.g. where it exceeds the maximum amount payable under Schedule v). What is nil profits, though not defined, is easily understood as meaning losses. however, what are inadequate profits, also though not defined, is not easily understood.

plus shareholders approval (ordinary or special) is required;

- c. Payment exceeding the aggregate limit of 11% of the net profits (even if the aforesaid sub-limits are not exceeded) – Central Government. approval is required.

InADEqUATE PRofITS

Section 197 uses the expression “inadequate profits” in sub-section 3 and sub-section 11.

S-197(3) states that where a company has nil or inadequate profits in any financial year, the company shall not pay any sum (other than sitting fees prescribed under S-197(5)) as remuneration to any of its directors (i.e. whether MD or WTD or part-time directors):

- a. unless such remuneration is in accordance with Schedule V; and
- b. unless Central Government. approval has been obtained if such remuneration is not in accordance with Schedule V.

S-197(11) states, as a corollary to S-197(3), that any provision (whether contained in the company’s articles or any agreement entered into by it or in any resolution of its Board or members or otherwise) relating to the increase in the remuneration of any director in the case of a company which has nil or inadequate profits shall not have effect:

- a. unless such increase is in accordance with Schedule V; and
- b. unless Central Government. approval has been obtained if such increase is not in accordance with Schedule V

Likewise Part II of Schedule V deals with managerial remuneration payable in the case of companies (only public companies since

private companies are not covered in S-197) having adequate/inadequate profits.

- Section I of Part II of Schedule V deals with managerial remuneration payable by companies having adequate profits. Section I specifically states that it is subject to S-197;
- Section II of Part II of Schedule V deals with managerial remuneration payable by companies having nil or inadequate profits. Section II does not state that it is subject to S-197;
- Section III of Part II of Schedule V deals with managerial remuneration payable in special circumstances by companies having nil or inadequate profits. Section III does not state that it is subject to S-197.

A company having nil or inadequate profits can pay managerial remuneration either in accordance with Schedule V or with the Central Government. approval if the remuneration payable is not in accordance with Schedule V (eg. where it exceeds the maximum amount payable under Schedule V). What is nil profits, though not defined, is easily understood as meaning losses. However, what is inadequate profits, also not defined, is not easily understood.

Considering the three tier approval process emerging out of a combined reading of the first and second provisos to S-197(1), a company has full flexibility (either with only its Board approval or with its Board plus shareholders approval) to pay remuneration to its managerial personnel, so long as the combined remuneration payable to all its directors does not exceed 11%.

- Once the combined remuneration crosses 11%, Central Government. approval is also required unless the remuneration is paid in accordance with Section II or Section III of Part II of Schedule V. Both these Sections deal with remuneration payable by a company having nil or inadequate profits. So long as managerial remuneration collectively does
- not exceed 11% of its net profits, the company can pay remuneration in whatever manner it wants to any of its directors (subject to obtaining its Board/shareholders approval) and will be governed by Section I of Part II of Schedule V.

Hence, it can be inferred that Section 197/Schedule V deems 11% of the net profits (computed in the manner prescribed in S-198) to be the threshold and if the managerial remuneration paid/proposed exceeds 11% of the net profits, those profits would be deemed inadequate.

There can arise situations where the company has adequate profits in the financial year in which any managerial person (eg. MD/WTD/part-time director) is appointed but has inadequate profits in any of the subsequent years (or vice versa) during the term of office of the managerial person. In such a case, the remuneration of the managerial person has to be determined in each financial year during the term of appointment, to decide which of the above sections would need to be complied with, depending on whether the company has adequate/inadequate profits. Consequently, if





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So long as managerial remuneration collectively does not exceed 11% of its net profits, the company can pay remuneration in whatever manner it wants to whichever of its directors (subject to obtaining its board/shareholders' approval) and will be governed by Section I of Part II of Schedule v.

any excess remuneration has been paid in a year (with reference to the applicable Section, where the company has moved to a situation of inadequate profits from adequate profits), the excess remuneration has to be returned unless Central Government approval is obtained thereto;

Adequacy of profits is a relative term and has to be interpreted vis-a-vis the Company and not the managerial personnel

Thus, adequacy/inadequacy of profits is not an absolute term but a relative term. Inadequacy of profits has to be judged in the context of managerial remuneration payable. Thus, if a company has 100 as its net profits and its total managerial remuneration (i.e. payable to all its directors) is say 14, then the 100 net profits will be regarded as inadequate. However, the same 100 of net profits will be regarded as adequate if the total managerial remuneration is say 9 (i.e. less than the threshold of 11).

Profits will not be regarded as inadequate if the company pays its MD say 6% of its net profits while the total managerial remuneration (i.e. payable to all its directors whether managing/whole-time or part-time) is say 9 (i.e. less than the threshold of 11% specified in Section 197(1)). The company can pay its MD 6% of its net profits with its Board and shareholders approval alone (pursuant to the second proviso to S-197(1)) since the total managerial remuneration to all its directors is not exceeding 11% and Central Government approval is not required in such a situation (under the first proviso to S-197(1)).

To regard remuneration of say 6% of net profits to the MD (or any other remuneration which exceeds the individual sub-limits prescribed for that category) as a situation of inadequate profits, when the aggregate managerial remuneration payable to all directors does not exceed the 11% threshold, would be stretching the requirements of the statutory provision (i.e. Section 197(1)) to situations which it is not enacted to cover and will lead to absurd results. To extend this example, say the remuneration paid to the MD is 6%, to the WTD is 3% and to the part-time directors is 1% of the net profits, then the profits would be regarded as inadequate vis-à-vis the MD (since it breaches the individual sub-limit of 5% prescribed in the second proviso to S-197(1)) and the same profits would be regarded adequate vis-à-vis the WTD and the part-time directors (since it does not breach the sub-limits

prescribed for those respective categories in the second proviso to S-197(1)). Profits of the company have to be regarded as adequate/inadequate vis-a-vis the company and not vis-a-vis the managerial personnel and this is apparent in the words used in S-197(3) and Section II and Section III of Part II of Schedule V, where the words "inadequate" profits are used in the context of the company and not in the context of specific managerial personnel. Since the first proviso to S-197(1) provides for Central Government approval only when the aggregate managerial remuneration exceeds 11% of the net profits, there is no statutory requirement for seeking such approval when the managerial remuneration paid to any category of managerial personnel exceeds the individual sub-limits without exceeding the aggregate limit of 11%.

If the words of the statute are clear and unambiguous, their plain meaning and not any restrictive meaning has to be given effect to, unless a drafting error is apparent or relying on the plain meaning would result in absurdity or injustice. While there are several approaches or philosophies that deal with the interpretation of statutes eg.

- the Literal Rule ("It is a cardinal principle in all statutes that you may not attach to a statutory provision a meaning that the words of that provision cannot reasonably bear. If they are capable of more than one meaning, then you can choose between those meanings, but beyond that you must not go" Lord Reid, Jones v DPP 1962);
- the Golden Rule ("the ordinary sense of the words is to be





adhered to, unless it would lead to absurdity, when the ordinary sense may be modified to avoid the absurdity but no further" in *Grey v Pearson* (1857) 6HL Cas 1);

- the Mischief Rule ("Judge should make such constructions on the Act to suppress the mischief and subtle inventions and evasions for continuance of the mischief, according to the true intent of the makers of the Act" in *Heydon's case* 1584);
- the Purposive Rule ("the days have passed when the courts adopted a literal approach. The courts use a purposive approach, which seeks to give effect to the purpose of the legislation" per Lord Griffiths in *Pepper v Hart* 1992. However, the counterview is "this is a naked usurpation of the legislative function under the thin guise of interpretation" by Lord Simonds in *Magor and St. Mellons R.D.C v Newport Corp.* 1950) etc.,

none of the above rules or other principles of interpretation of statutes can support the view that Central Government. approval is required if individual sub-limits are exceeded, when the section requires such approval only if the aggregate limit is exceeded. Interpretation and implementation of statutory provisions cannot impose new requirements but can only give meaning to existing requirements.

Thus, where the company has say 6 directors of which 1 is the MD, 2 are WTD and 3 are part-time directors, the approval process contemplated in the first and second provisos of Section 197(1) is as follows:

- a. With Board approval only (i.e. not exceeding limits in second proviso to S-197(1)):
 - i. MD or each WTD can be paid upto 5% of the net profits;
 - ii. MD + 2 WTD together cannot be paid more than 10% of the net profits;
 - iii. 3 Part-time directors together cannot be paid more than 1% of the net profits;
 - iv. Thus, for example, the MD and the two WTD can be paid 3% each and the 3 part-time directors can be collectively paid 1%, which is within the powers of the Board to approve since none of the individual sub-limits specified are being exceeded.

It needs to be noted that although the second proviso to S-197(1) does not require shareholders approval if the remuneration is within the sub-limits specified therein, S-196(4) and Part III of Schedule V requires the shareholders approval for payment of remuneration to the MD, WTD or manager even if their remuneration is within the sub-limits specified in the second proviso to S-197(1).

- b. With Board + shareholders approval only (i.e. exceeding the limit in the second proviso but not exceeding the limit in the first proviso, to S-197(1)):
 - i. Remuneration to MD, 2 WTD and 3 part-time directors

collectively cannot exceed 11;

- ii. Subject to above, remuneration to MD or WTD can exceed 5 each or 10% collectively or remuneration to 3 part-time directors can exceed 1.
 - iii. Thus, for example, the MD can be paid 6%, each of the 2 WTD can be paid 2% and 3 part-time directors can be paid 1% collectively (remuneration to all directors does not exceed 11%).
- c. With Board + shareholders + Central Government. approval (i.e. exceeding the limit in first proviso to S-197(1)):
 - i. Remuneration to MD, 2 WTD and 3 part-time directors collectively exceeds 11%. This can happen although the remuneration paid to each category is within the applicable sub-limit specified for that category eg. MD and each WTD are paid 5% and the 3 part-time directors are paid 1% collectively of the net profits.

Applicability of Schedule V for payment of managerial remuneration

Section I of Part II of Schedule V (payment of managerial remuneration by a company having profits, without Central Government. approval) deals with cases in (b) above. Section I contains the words "Subject to the provisions of Section 197";

Section II of Part II of Schedule V (payment of managerial remuneration by a company having nil or inadequate profits, without Central Government. approval) refers to a situation where a company's managerial remuneration exceeds 11% (and hence there are inadequate profits) but due to an express exemption, Central Government. approval is not required, if the remuneration paid does not exceed the limits specified in Section II. It is noteworthy that Section II does not contain the words "Subject to the provisions of Section 197" (unlike Section I). Section II prescribed two different options of applying the ceiling on payment of managerial remuneration in a situation of inadequate profits. Clause A prescribes various slabs of "effective capital" (as defined in Explanation I in Section IV of Part II of Schedule V) and the maximum remuneration eligible against whichever slab is applicable to the company. Clause B prescribes that the maximum remuneration of the managerial person (provided the person does not attract the disqualifications mentioned therein) cannot exceed 2.5% of the current relevant profits (as defined in Explanation IV in Section IV). The above ceilings can be doubled if the shareholders so approve by special resolution. Thus, where a company has losses, then Clause A would be helpful (since Clause B is applicable only where a company has inadequate profits but not losses). Where a company has inadequate profits, a comparison will need to be made whether managerial remuneration under Clause A (i.e. absolute amounts based on the company's effective capital) or under Clause B (i.e. @ 2.5% of the current relevant profits) will be higher and accordingly, the company can





Article

ANALYSIS OF MANAGERIAL REMUNERATION PROVISIONS IN THE COMPANIES ACT 2013 WITH SPECIFIC REFERENCE TO COMPANIES WITH "INADEQUATE PROFITS"

pay the higher remuneration figure permissible under Section II (of Part II of Schedule V) without Central Government. approval.

Remuneration limits specified in Section II relate to MD/WTD individually, which can be implied by the use of the words "the managerial person", "appointee" etc. used in Section II. If there are more than one WTD, the limit specified therein would presumably apply to each WTD and not to all the MD/WTD collectively.

Part-time directors remuneration however is not covered in Section II, which therefore begs the question as to how they are to be remunerated. To answer this query, reference has to be made to S-197(3) which states that:

"(3) Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or wholetime director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V and if it is not able to comply with such provisions, with the previous approval of the Central Government".

- Where in a financial year, the company has no profits or inadequate profits, the following conclusions flow from the wordings in Section 197(3):
 - a. 1% limit on remuneration payable to part-time directors does not apply since S-197(3) expressly excludes S-197(1) wherein this limit is specified (i.e. "notwithstanding anything contained in sub-sections (1)");
 - b. subject to the provisions of Schedule V, the company shall not pay to its directors including its managing or wholetime director or manager, by way or remuneration any sum except in accordance with the provisions of Schedule V or with the previous approval of the central government;
- Consequently, since the limits under S-197(1) are excluded and S-197(3) prohibits any remuneration to any director other than the managing/ wholetime director under Section II, no remuneration can be paid to the part-time directors in the case of a company having nil/inadequate profits unless the approval of the central govt. is obtained to remunerate the part-time directors in this situation. The above leads to unintended consequences since full-time directors can be remunerated as per Section II without Central Government. approval whereas part-time directors who expend their time in supervising the company and its full-time directors and take on liability risks of a company having nil/ inadequate profits cannot be remunerated except without obtaining Central Government. approval;

SOME ASPECTS REGARDING MANAGERIAL REMUNERATION PAID UNDER SCHEDULE V

Items of remuneration to be considered for the purpose of computing the ceiling on managerial remuneration under Sections I to III of Schedule V are as under:

To be included	To be excluded
Salary	Reimbursement of expenses for attending Board/ Committee meetings
Commission based on net profits	Sitting fees for attending Board/Committee meetings (Section 197(2))
Performance Bonus	Professional fees for tendering professional advice
	Provided in the opinion of the Nomination & Remuneration Committee or Board of Directors, the director receiving these fees, possesses the requisite qualifications for giving such professional advice (Section 197(4))
All perquisites are to be included for remuneration ceiling computation under Section I of Schedule V.	Perquisites listed in Clauses 1 and 2 of Section IV are to be excluded from the computation of remuneration payable under Section II and III
All perquisites excluding perquisites listed in Clause 1 and 2 of Section IV, are to be included for remuneration ceiling computation under Section II and III of Schedule V.	ESOPs Premium paid under any insurance policy indemnifying any managing/wholetime director from any liability caused by their negligence, breach of trust etc. towards the company, unless they are found to be guilty
Any benefit receivable under an office or place of profit held by a director not being professional fees excluded under S-197(4) eg. commission for providing guarantee on behalf of the company	
Any other benefit, whether paid in cash or kind, whether monthly or annually, whether fixed or as a percentage of net profits, that can be regarded as payment for services not excluded u/s 197(4)	
Premium paid under any insurance policy indemnifying any managing/wholetime director from any liability caused by their negligence, breach of trust etc. towards the company, if they are found to be guilty	

23. The following table summarises the distinguishing features of Sections I to III (inter se) and their respective applicability:

Sr. No.	Features	Section I	Section II	Section III
1	Company's Profits	Adequate Profits	Nil or Inadequate Profits	Nil or Inadequate Profits
2	Managerial remuneration	Less than 11% of net profits computed as per S-198	More than 11% of net profits computed as per S-198	More than 11% of net profits computed as per S-198





3	Coverage	Covers remuneration paid to both full-time and part-time directors	Covers remuneration paid to only full-time directors. Part-time directors cannot be remunerated without Central Government approval due to S-197(3) Company has a choice to pay higher of Para A (remuneration fixed based on effective capital, as defined) or Para B (based on 2.5% of current relevant profit (as defined), both of which can be doubled based on shareholders approval by special resolution	Covers remuneration paid to only full-time directors. Part-time directors cannot be remunerated without Central Government approval due to S-197(3)
4	Basis of Remuneration and computation method	Percentage of net profits	Each of the four situations mentioned has a different basis viz. - where the company paying remuneration is either a foreign company or an Indian company which has obtained its shareholders approval to pay the managerial remuneration of another company and such remuneration alongwith remuneration paid to its own personnel is within the permissible limits of the paying company u/s 197; - double of the Section II limits in case of a newly incorporated company for 7 years or a sick company under supervision of the BIFR or NCLT for 5 years; - any amount as is fixed by the BIFR or NCLT subject to complying with the conditions specified; - a maximum of Rs.240L in case of a SEZ meeting the conditions specified. Does not apply. Ceiling on remuneration prescribed in the Section	
5	Section 197 (1) remuneration limits prescribed in S-197 can be exceeded with shareholders and/or Central Government approval	Applies. Percentage limits prescribed in S-197 can be exceeded with shareholders and/or Central Government approval	Does not apply. Ceiling on remuneration prescribed in the Section	
6	Central Government approval if managerial remuneration does not exceed 11%	Not required unless remuneration ceiling specified in the Section is exceeded	Not required unless remuneration ceiling specified in the Section is exceeded	

7	Inclusion of perquisites	All perquisites included eg. contribution to PF, gratuity and leave encashment	certain perquisites excluded in all cases and certain other perquisites excluded in case of expatriate managerial person (including non-resident Indian) Applicable i.e.	certain perquisites excluded in all cases and certain other perquisites excluded in case of expatriate managerial person (including non-resident Indian)
8	Applicability of Part I and III of Schedule V of managerial	Applicable i.e. person has to be in accordance with Part I and certificate of compliance and return has to be filed with Registrar u/s 196(4) under Part III	appointment of managerial person has to be in accordance with Part I and certificate of compliance and return has to be filed with Registrar u/s 196(4) under Part III	Applicable i.e. appointment of managerial person has to be in accordance with Part I and certificate of compliance and return has to be filed with Registrar u/s 196(4) under Part III

ConClUSIon

The managerial remuneration provisions under the Companies Act, 2013 are more liberal than those under the erstwhile Companies Act, 1956. It would however be desirable if alongwith the changes being made with reference to the Companies Act, 2013 by way of amendments, circulars, notifications etc., specific clarity is provided regarding inadequate profits and the payment of remuneration to part-time directors where the company has nil or inadequate profits.

Appointment

A leading Practicing Company Secretaries firm in Odisha having 14 years of experience is going to start its banking outsourcing/ secretarial corporate operations Pan India, requires Practicing Company Secretaries firm/Chartered Accountant firm having 1-2 years of experience to join as associates. Freshers may also apply. Partners are free to operate their own firm also.

Interested candidates may send their C.V along with a cover letter at **Box No. 608**, C/o Chartered Secretary, The Institute of Company Seretaries of India, ICSI House, 22 Institutional Area, Lodi Road, New Delhi-110003.





Article



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An Insight into the Corporate Social Responsibility

- The Gandhian principle of trusteeship expresses the inherent duties of the business enterprises towards its consumers, workers, community and the mutual responsibilities of these to one another. Section 135 of the Companies Act, 2013 has aroused the conscience of the Corporates, especially the large ones, for involving in inclusive growth of the society. In the light of the emerging need of the society, Association of business Chambers of Commerce and Industry (AbCCI) would endeavour to act as a catalyst agent in ushering the stakeholders in achieving the desired goal of the society.

GENESIS of CSR

For the purpose of academic discussion we may infer first from the pre-industrialisation period which lasted till 1850. Charitable organization and philanthropy were the main drivers of CSR. The wealthy merchants shared a part of their wealth in getting over phases of famine and epidemics by providing food from their godowns and money and thus securing an integral position in the society. With the arrival of colonial rule in India from 1850s onwards, the approach towards CSR changed. The industrial families of the 19th century such as Tata, Godrej, Bajaj, Modi, Birla, Singhanian were strongly inclined towards economic as well as social considerations.

During the independence movement, there was increased stress on Indian Industrialists to demonstrate their dedication towards the progress of the society. This was when Mahatma Gandhi introduced the notion of "trusteeship", according to which the industry leaders had to manage their wealth so as to benefit the common man.



The emergence of mixed economy saw the private sector taking a back seat while the public sector was seen as the prime mover of development. But, the public sector was effective only to a certain limited extent. This led to shift of expectation from the public to the

*The author is grateful to the anonymous referee/s for insightful comments.



➤ Corporates have excelled in the last two decades in generating much wealth and prosperity. Ironically, much of this growth has been skewed in favour of a few, while the vast majority has been left behind. Section 135 provides an opportunity to set this right by catalysing a process of national regeneration wherein corporate India can work hand in hand with the government and civil society to bring about sustainable development. If implemented in true letter and spirit, the Act has the potential to be a game changer for our country.

private sector and their active involvement in the socio-economic development of the country became absolutely necessary.

The post globalization and economic liberalization period (1991 onwards) helped Indian companies grow rapidly and this made them more willing and able to contribute towards social cause.

CSR In INDIAn PERSPECTIVE

CSR in India has traditionally been a philanthropic activity. And in keeping with the Indian tradition, it was an activity that was performed but not deliberated. As a result, there is limited documentation on specific activities related to this concept. Owing to global influences and with communities becoming more active and demanding, there appears to be a discernible trend that while CSR remains largely restricted to community development, it is getting more strategic in nature. In India much has been done in recent years to make Indian entrepreneurs aware of social responsibility as an important segment of their business activity but CSR in India has yet to receive widespread recognition.

nEED To REVISIT The CSR

With a view to increase the transparency, accountability, and align with international business standards, it was felt imperative to revisit the Companies Act of 1956. Accordingly, the Companies Act 2013 has been enacted in place of the 1956 Act.

Amongst various new provisions incorporated in the Act, Section

135 is one such provision which is made mandatory and known as Corporate Social Responsibility (CSR). The CSR provision of the Companies Act, 2013 is applicable to any registered company with:

- (1) a net worth of ` 500 crore or more;
- (2) a turnover of ` 1000 crore or more; or
- (3) a net profit of ` 5 crore or more in any fiscal year.

Such a company shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director. The CSR Committee shall formulate and recommend Corporate Social Responsibility Policy which shall indicate the activity or activities to be undertaken by the company as specified in Schedule VII and shall also recommend the amount of expenditure to be incurred on the CSR activities.

The Board of every company shall ensure that the company spends in every financial year at least 2% of the average net profits of the company made during the three immediately preceding financial years in pursuance of its CSR policy. Where the company fails to spend such amount, the Board shall in its report specify the reasons for not spending the amount. The approach is to 'comply or explain'. The Company shall give preference to local areas where it operates, for spending amount earmarked for CSR activities. Section 135 makes it mandatory for specified companies to spend on CSR from FY 14-15 onwards.

Schedule VII of the Companies Act, 2013 requires the CSR policy laid down by the CSR committee to involve at least one of the following focus areas:

- Eradicating extreme hunger and poverty
- Promotion of education
- Promoting gender equality and empowering women
- Reducing child mortality and improving maternal health
- Combating [HIV], [AIDS], malaria and other diseases
- Ensuring environmental sustainability
- Employment-enhancing vocational skills
- Social business projects





Article

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- Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development, and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women
- Such other matters as may be prescribed.
- Schedule VII provides an indicative list of activities that a company may take up as part of its CSR. This Schedule can be amended by the Government depending upon the feedbacks received from across the stakeholders. If required, the government can suitably amend it.

CSR AS CATALYST GAME-CHANGER

In an interview with NextGen at Mindtree Global Village, Bangalore on the 4th of October, 2013, Dr Bhaskar Chatterjee, CEO and Director General- Indian Institute of Corporate Affairs (IICA) expressed that corporates have excelled in the last two decades in generating much wealth and prosperity. Ironically, much of this growth has been skewed in favour of a few, while the vast majority has been left behind. Section 135 provides an opportunity to set this right by catalysing a process of national regeneration wherein corporate India can work hand in hand with the government and civil society to bring about sustainable development. If implemented in true letter and spirit, the Act has the potential to be a game changer for our country. He also felt that implementation of the new legislation would pump crores of rupees into the development sector. Ensuring that these funds are optimally utilized will be a big challenge. Inability of companies to spend as per the 2% criteria is another area that would require quick ramping up of CSR delivery bandwidths. CSR training across all levels is another mammoth task that would need to be taken up at a fast pace. Identifying credible NGOs that have the capacity to deliver effectively at scale, is also a daunting task.

It is estimated that 3 billion US dollars of CSR capital will be generated annually. In this regard, Dr Chatterjee said that CSR spending will be directly linked to the CSR Policy of a company. It is, therefore, imperative that there is appropriate orientation of the CSR Committee of the Board that develops the CSR Policy. Once the Policy is in place, its implementation, monitoring and evaluation would be critical to ensure that every rupee that is spent actually counts. Each company would need to do all these with great responsibility and diligence. In the end, publishing the CSR work in the public domain, over a period of time, would act as a deterrent to inefficient use of funds.

Dr Chatterjee spelt out a series of activities and initiatives to fulfil its mandate. Some of these include developing a National NGO hub; setting up a data and collaborative projects CSR Portal; taking up CSR trainings and consultancies, developing a sustainability centre, creating a Global gateway for CSR in India; conducting awareness workshops, conferences and seminars nation-wide; developing partnerships with chambers of industry,

academic institutions and corporates that can give impetus to the implementation of its mandate; etc.

DIVERGENT VIEWS ABOUT THE PRESCRIPTION OF THE QUANTUM

There are divergent opinions amongst the Corporates on the prescription of 2% spend on CSR. Some opined that it should be left with the company to decide the quantum to be spent under CSR. However, the data available show a different story.

Table I - Companies that went beyond 2% in 2012-13

(Amount in ` Crore)

Company	2% of Avg PAT of FY 2010,11 &12	CSR spending In FY 2013
Jaiprakash Associates	26.01	28.81
IDFC	25.65	31.21
Adani Ports & SEZ	19.09	25.78
Ultratech Cement	32.95	43.40
ICICI Bank	104.27	116.55
National Aluminium Company	18.22	30.99
Ambuja Cements	24.73	39.82
Hindustan Unilever	47.99	69.09
Tata Steel	124.05	170.59
Jindal Steel & Power	37.69	99.14

Source: Partners in Change-Making Corporate Social Responsibility Your Business.

It may be observed from Table I that companies have spent more than what they were required to spend in 2012-13. Also, Table II exhibits a very rosy picture for the top ten spending companies. But, the data made available by PiC, for the top 100 companies, depict a different story altogether. These 100 companies were required to spend `4276.07 crore in 2012-13 but they spent `2723.75 crore only. The PiC have estimated `4687.86 crore to be spent by these 100 companies in 2013-14.





➤ The business sector is faced with new responsibilities, new challenges and new opportunities to be explored in order to make poverty and squalor a thing of the past. Philanthropy among businesses has always existed. In India, all leading corporate houses are involved in programs covering areas like education, health, livelihood creation, skill development, and empowerment of weaker sections of society. CSR is the continuing commitment by business houses to behave ethically and contribute to economic development while improving the quality of life of the workforce and local community at large.

P & G flagship CSR programme 'Shiksha' which is an integral part of their global philanthropy programme Live, Learn and Thrive – Padhega India, Badhega India.

Mr Azim Premji of Wipro received the Managing India Award for Corporate Citizen of the Year for the Azim Premji Foundation. In his speech while accepting the ET Lifetime Achievement Award 2013, he stated that philanthropy can't be seen as just an offshoot activity as there are probably three million children who are homeless and will sleep on the streets in India every night. More than 200 million of our people will also probably sleep hungry. In very simple terms: can we be indifferent to this?

Times Foundation, the corporate social responsibility wing of the Bennett, Coleman & CO. Ltd. was registered as a Society in December 2000. It aims at promoting equity through leadership and innovative approaches which has the potential to impact people on the ground and in partnership with TNS India and IRRAD undertook a national survey to understand the underlying dynamics of CSR and the current situation in India. The survey underlines the various issues - current CSR policies, major stakeholders - their current and future plans, geographical areas covered, role of civil society and government, challenges, recommendations etc.

Table II – Top 10 spending companies in 2012-13

Company	Amount in ` Crore
Larsen & Toubro	73.16
NTPC	79.53
Indian Oil Corporation	80.08
ITC	82.34
Jindal Steel & Power	99.14
ICICI Bank	116.55
State Bank of India	123.27
Tata Steel	170.59
Oil and Natural Gas Corporation	261.58
Reliance Industries	357.05

Source: Partners in Change–Making Corporate Social Responsibility Your Business.

According to Indian Institute of Corporate Affairs, a minimum of 6,000 Indian companies will be required to undertake CSR projects in order to comply with the provisions of the Companies Act, 2013. Further, some estimates indicate that CSR commitments from companies can amount to as much as `20,000 crore.

Some corporates are doing par excellence in the field of CSR. Mention may be made for a few corporates which have shown the path to others and become the trend setters.

GMR Varalakshmi Foundation (GMRVF) is the Corporate Social Responsibility arm of the GMR Group. Its mandate is to develop social infrastructure and enhance the quality of life of communities around the locations where the Group has a presence. The Foundation is a Section 25 (not-for-profit) company. It has its own professional staff drawn from top academic and social work institutions. It is governed by a Board chaired by Group Chairman, GMR Group.

British companies are expected to contribute as much as 100 million pounds per year for Corporate Social Responsibility (CSR) work in India under the country's new Companies Act.

Now, it is heartening to note that our Prime Minister has launched on mission-mode the issue of public hygiene to which the Indian Corporates have enthusiastically responded and come forward to support the cause of sanitation under their CSR agenda. About a dozen of Indian Corporates have committed to provide nearly 50000 toilets in schools and in the rural areas.

WhAT nEEDS To bE DonE?

The business sector is faced with new responsibilities, new challenges and new opportunities to be explored in order to make poverty and squalor a thing of the past. Philanthropy among businesses has always existed. In India, all leading corporate houses are involved in programs covering areas like education, health, livelihood creation, skill development, and empowerment of weaker sections of society. CSR is the continuing commitment by business houses to behave ethically and contribute to economic development while improving the quality of life of the workforce





Article

AN INSIGHT INTO THE CORPORATE SOCIAL RESPONSIBILITY

and local community at large.

It needs to be endeavoured earnestly to assist in synergizing partnerships between Corporates, Governments, Civil Society Organizations, Academic Institutions and Social Entrepreneurs. It will also help developing CSR strategy, help devising ways and means for capacity building and monitoring from different fora.

All stake-holders also need to share experiences and try finding solutions with industry experts and stakeholders in relation to achieving inclusive growth in India.

“Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws.” - Plato

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PAYMENT OF ANNUAL MEMBERSHIP AND CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2015-16

The annual membership fee and certificate of practice fee for the year 2015-16 became due for payment w.e.f. 1st April, 2015. The last date for payment of fee is 30th June, 2015.

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*A member who is of the age of sixty years or above and is not in any gainful employment or practice can claim 50% concession in the payment of Associate/Fellow Annual Membership fee and a member who is of the age of seventy years or above and is not in any gainful employment or practice can claim 75% concession in the payment of Associate/Fellow Annual Membership fee subject to the furnishing of declaration to that effect.

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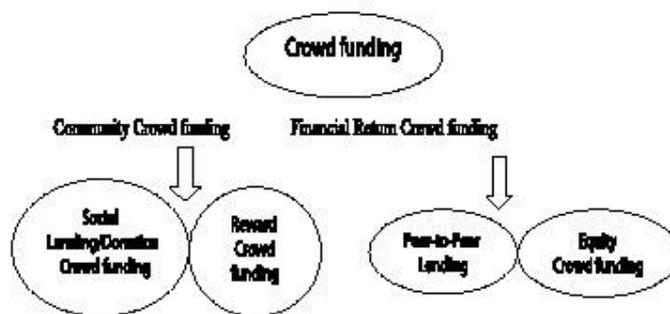
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Crowd funding

Worldwide financial crisis (2008) resulted in failure of number of banks and, consequently the basel III Capital adequacy norms have been made applicable to banks. As a result, banks have become increasingly constrained in their ability to lend money to the ventures or start-ups which may have high risk element. hence, there is a need for funding for SME through alternative sources which gave birth to Crowd funding. This article aims to provide a brief overview of the global scenario of Crowd funding including the various prevalent models under it, the associated benefits and risks.

The ConCEPT

Crowd funding is solicitation of funds (small amount) from multiple investors through a web-based platform or social networking site for a specific project, business venture or social cause. Crowd sourced funding is a means of raising money for a creative project (for instance, music, film, book publication etc.), a benevolent or public-interest cause (for instance, a community based social or co-operative initiative) or a business venture, through small financial contributions from persons who may number in the hundreds or thousands. Those contributions are sought through an online crowd-funding platform, while the offer may also be promoted through social media.



Types of CROWD-fUNDING

Crowd funding is prevalent in developed countries like U.S.A, U.K. etc. However, it's altogether a new concept for emerging markets like India. Crowd-funding can be divided into four categories:- Donation crowd funding, reward crowd funding, peer-to-peer lending and equity Crowd funding.

artistic, philanthropic or other purpose, and not in exchange for anything of tangible value. In US, Kickstarter, Indiegogo etc. are some of the platforms that support donation based crowd funding.

DonATION CROWD fUNDING

Donation crowd funding denotes solicitation of funds for social,

REWARD CROWD fUNDING

Reward crowd funding refers to solicitation of funds, wherein investors receive some existing or future tangible reward (such as an existing or future consumer product or a membership rewards scheme) as consideration. E.g. Kickstarter, RocketHub etc., are some of the platforms that support Reward crowd funding.

*Also Chairman, Indore Chapter of ICSI.





Article

CROWD FUNDING

➤ In Indian scenario, considering the necessity to provide alternative funding sources to Start-ups and at the same time to ensure that retail investors are not made to bear the risks of Start-up ventures, it is proposed to permit only Accredited Investors to participate in crowd funding.

PEER-To-PEER IEnDInG

In Peer-to-Peer lending, an online platform matches lenders/ investors with Borrowers/issuers in order to provide unsecured loans and the interest rate is set by the platform. Some Peer-to-Peer platforms arrange loans between individuals, while other platforms pool funds which are then lent to small and medium-sized businesses.

EqUITY bASED CRoWD fUnDInG

In Equity based crowd funding, in consideration of funds solicited from investors, equity shares of the company are issued. It refers to fund raising by a business, particularly early-stage funding, through offering equity interests in the business to investors online. Businesses seeking to raise Capital through this mode typically advertises online through a crowd funding platform website, which serves as an intermediary between investors and the start-up companies.

Traditionally, Start-ups are funded through private equity, angel investor or loan arrangements with a financial institution. Any offering of public equity takes place only after the product or business becomes commercially viable. However, in Equity based Crowd funding solicitation is done at an earlier stage.

InDIAn SCEnARIo foR CRoWD fUnDInG

Existing legal framework

The provisions in the existing legal framework for raising funds by companies are regulated under Companies Act, 2013 and Securities Act i.e. SEBI Act, 1992, Securities Contracts (Regulation) Act, 1956 and Depositories Act, 1996. Raising of pooled managed investment funds by various entities such as Alternative Investment Fund (AIF), Mutual Fund (MF) etc. is regulated under Securities Laws.

SME (small and medium enterprises)

funding

SEBI has taken various steps in the recent past to enable Start-ups and SME to raise funds through various routes such as SME Segment of Exchanges, Institutional Trading Platform (ITP), Category I- SME Fund under AIF Regulations. Crowd funding is a new tool of raising funds by SMEs.

SME segment

SEBI has specified the framework for a SME segment (platform) on Recognized Stock Exchanges, where Small and Medium Enterprises (SME) can list their securities. A company which has its post-issue face value capital not exceeding ten crore rupees shall list only in SME platform. A company, which has its post issue face value capital more than ten crore rupees and up to twenty five crore rupees, has an option to list in SME platform. In case the post-issue face value capital exceeds Rupees twenty five Crore rupees, the issuer should compulsorily list only on main board of the Stock Exchanges.

Who Can bE ThE InvESToR

Various jurisdictions have imposed different restrictions on investments and categories of investors who are allowed to invest in companies which are displayed on such internet based crowd funding websites or platforms.

In Indian scenario, considering the necessity to provide alternative funding sources to Start-ups and at the same time to ensure that retail investors are not made to bear the risks of Start-up ventures, it is proposed to permit only Accredited Investors to participate in crowd funding.

ThE ACCREDITED InvESToRS

The proposed accredited investors who may be allowed to invest through crowd funding platforms are as under:-

- qualified Institutional Buyers (qIBs) as defined in SEBI (Issue





➤ Prior to 2007, not much attention was given by the Government of India to regulation of the practices of parallel importation in India. Seeing constant increase in the practices of parallel importation in India, the first law promulgated in this connection was the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

of Capital and Disclosure Requirements) Regulations, 2009 as amended from time to time.

- Companies incorporated under the Companies Act of India, with a minimum net worth of Rs. 20 crores.
- High Net Worth Individuals (HNIs) with a minimum net worth Rs. 2 Crores or more (excluding the value of the primary residence or any loan secured on such property), and
- Eligible Retail Investors (ERIs) (i) who receive investment advice from an Investment Adviser, or (ii) who avail services of a Portfolio manager, or (iii) who have passed an Appropriateness Test (may be conducted by an institution accredited by NISM or the crowd funding platforms); (iv) who have a minimum annual gross income of Rs. 10 Lacs; (v) who have filed Income Tax return for at least last 3 financial years; (vi) who certify that they will not invest more than Rs. 60,000 in an issue through crowd funding platform; (vii) who certify that they will not invest more than 10% of their net worth through crowd funding. (Net worth excludes the value of the primary residence or any loan secured on such property).

InvESTMENT IIMITS

The Companies (Prospectus and Allotment of Securities) Rules, 2014 specifies that in case of a private placement of securities the offer or invitation to subscribe shall not be made to more than 200 investors in a financial year.

Therefore, equity based crowd funding and debt based crowd funding shall allow private placement offers through internet based crowd funding platforms to any number of qIBs and a maximum of 200 HNIs and ERIs combined.

The Companies (Prospectus and Allotment of Securities) Rules, 2014 specifies that in case of a private placement of securities, the minimum offer Value per person must be at least Rs. 20,000 of the face value of the securities. In view of these provisions SEBI has proposed the following:

- (i) A qIB is required to purchase at least 5 times of the minimum offer value per person as specified in the aforementioned Rule.

Collectively all the qIBs shall hold a minimum of 5% of the securities issued.

- (ii) A company is required to purchase at least 4 times of the minimum offer value per person as specified in the aforementioned Rule.
- (iii) A HNI is required to purchase at least 3 times the minimum offer value per person.
- (iv) An ERI is required to purchase at least the minimum offer value per person. The maximum investment by an ERI in an issue shall not exceed Rs. 60,000. The total of all investments in crowd funding for an eligible retail investor in a year should not exceed 10% of its net worth.

Who Can W fRoM CRoWD fUnDInG PIATfoRM AnD IIMITATIOnS on CAPITAL RAISED

A company intending to raise capital not exceeding Rs. 10 Crores in a period of 12 months can opt for crowd funding. Companies which intend to issue more than Rs.10 Crores may raise funds by complying with the provisions of SEBI (ICDR) Regulations and list them on a SME Platform or main board of a recognized stock exchange, a company which is not promoted, sponsored or related to an industrial group which has a turnover in excess of Rs. 25 Crores or has an established business, a company which is not listed on any exchange, a company which is not more than 48 months old, a company which proposes to engage in non-financing ventures, i.e. funds raised through the crowd funding platform will not be further used for providing loans or investments in other entities, and a company which is not engaged in real estate and activities which are not permitted under industrial policy of Government of India.

Further, to ensure only genuine entities raise funds through this mode the following are to be ensured:





Article

CROWD FUNDING

➤ Crowd funding may provide an alternative source of capital for entrepreneurs who either have limited access to capital or have exhausted other available sources of capital. This also saves the entrepreneur from a lot of efforts required for obtaining capital and allows him/her to focus on the business.

- The issuing company, its directors, promoters or associates have not been prohibited from accessing or operating in the capital markets or restrained from buying, selling or dealing in securities under any order or direction passed by the SEBI.
- The issuing company, its directors, promoters or associates are not mentioned as a 'defaulter' or a 'wilful defaulter' by RBI or CIBIL.
- The director(s) or promoter(s) are not disqualified to be appointed as director(s) under the Companies Act 2013.
- The issuing company, its directors, promoters or associates are 'fit and proper' persons as specified under the Schedule II of the SEBI (Intermediaries) Regulations, 2008.

In addition to the above, the issuers must also comply with the following:

- In a given period of 12 months, issuers shall not use multiple crowd funding platforms to raise funds.
- Issuers shall not directly or indirectly advertise their offering to public in general or solicit investments from the public. Issuer shall compulsorily route all crowd funding issues through a SEBI recognized Crowd funding Platform.
- Issuers shall not directly or indirectly incentivize or compensate any person to promote its offering.
- Issuers shall provide for oversubscription. This may include maximum oversubscription amount to be retained, which should not exceed 25% of the actual issue size; intended usage of the oversubscribed amount. The total amount

retained including the actual issue size and oversubscription, shall not exceed the limit of Rs. 10 Crores.

CoST AnD bEnEfIT AnAlYsIS of ThE PRoPoSAI

The proposed structure for crowd funding will provide an enabling framework. Crowd funding may provide an alternative source of capital for entrepreneurs who either have limited access to capital or have exhausted other available sources of capital. This also saves the entrepreneur from a lot of efforts required for obtaining capital and allows him/her to focus on the business.

One of the objectives of the regulations is to reduce the costs involved in raising funds for entrepreneurs. Under the existing regulations, an issuer is required to pay underwriter fees, legal and accounting fees, registrar and transfer agent fees, merchant banker fees, marketing and advertising fees or distribution commissions and other fees some of which may not be applicable in crowd funding.

Crowd funding facilitates such entrepreneurs in raising funds without incurring too much of the costs by doing away with the requirement of appointing a merchant banker, marketing and advertising expenses and book building etc. Further, there shall be no listing requirement and no prospectus needs be filed with SEBI. However, a company seeking display in recognized crowd funding platform may be required to pay fees to such platform, which is expected to be substantially lower in comparison to the current issue expenditure. The fees to a platform may be dependent on various factors like number of platforms in the market, number of companies seeking display at such crowd funding platforms, etc.

Crowd funding not only helps the issuers to raise money but also serves as a way of advertising for these companies. It helps in increasing their visibility which can directly or indirectly lead to the growth in their businesses. Crowd funding is expected to spur entrepreneurship and benefit the entire economy. Crowd funding also enables investors to make relatively modest investments across a range of opportunities with relatively

low transaction costs and obtain equity positions in companies that may eventually prove to be successful and profitable, which they are not able to do under the current regulations. Platforms may also charge a nominal fee to its registered accredited investors for carrying out their due diligence. Platforms may also be required to pay some fee for recognition. Consultation process may assist in crystallizing such charges for the new framework.



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overseas listing by Indian Unlisted Companies

- The Ministry of finance vide notification no. GSR 684.E. dated 11th october 2013, amended the foreign Currency Convertible bonds (fCCBs) and ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 thereby permitting unlisted Indian companies to list directly on overseas stock exchanges without having to go through the requirements of listing in India. Called, the issue of foreign Currency Convertible bonds and ordinary Shares (Through Depository Receipt Mechanism) (Amendment) Scheme, 2013 the new scheme came into effect from 11th november 2013. Salient features of the new scheme are explained here.

LEGAL BASIS of The 1993 SCHEME

Section 6(3) (b) read with section 47 of the Foreign Exchange Management Act, 1999 empowers the RBI to prohibit, restrict or regulate the transfer or issue of securities by a person resident outside India. Accordingly, the RBI has permitted an Indian company to issue its rupee denominated shares to a depository (person resident outside India) for the purpose of issuing GDRs or ADRs, subject to meeting the following requirements:

1. The Indian company has approval from Ministry of Finance to issue DRs or is eligible to issue DRs in terms of the relevant Scheme in force or notification issued by Ministry of Finance.
2. The Indian company is not otherwise ineligible to issue shares to persons resident outside India under FEMA .
3. The DRs are issued in accordance with the scheme and guidelines issued by the Central Government thereunder from





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OVERSEAS LISTING BY INDIAN UNLISTED COMPANIES

time to time.

The Scheme, framed by Ministry of Finance derives its legal force today from requirements 1 and 3 above.

The Companies Act, 2013 defines ‘global depository receipt’ to mean any instrument in the form of a depository receipt, by whatever name called, created by a foreign depository outside India and authorised by a company making an issue of such depository receipts. It gives the Central Government the power to make rules regarding the manner and condition of issue of such DRs in any foreign country. This provision is an additional source of legal authority governing the issue of DRs.

As per Section 41 of the Companies Act, 2013, a company, may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions, as may be prescribed in the Companies (Issue of Global Depository Receipts) Rules, 2014.

Companies (Issue of Global Depository Receipts) Rules, 2014 has been notified by the Ministry of Corporate Affairs with effect from 1st April 2014. As per the said rules, a company may issue depository receipts provided it is eligible to do so in terms of the Scheme and relevant provisions of the Foreign Exchange Management Rules and Regulations.

The Ministry of Corporate Affairs has vide its general circular no. 43/2014 dated 13th November 2014 clarified that unless provided in the 1993 scheme or the directions/ regulations issued by RBI, provisions of Chapter III of the Companies Act, 2013 shall not apply to an issue of FCCB or FCB made exclusively to persons resident outside India in accordance with the above mentioned regulations.

As per Master Circular on Foreign Investments in India dated July 1, 2014 issued by RBI (para 8F) Depository Receipts (DRs) are negotiable securities issued outside India by a Depository bank, on behalf of an Indian company, which represent the local Rupee denominated equity shares of the company held as deposit by a Custodian bank in India. DRs are traded on Stock Exchanges in the US, Singapore, Luxembourg, London, etc. DRs listed and traded in the US markets are known as American Depository Receipts (ADRs) and those listed and traded elsewhere are known as Global Depository Receipts (GDRs). In the Indian context, DRs are treated as FDI.

Evolution of The 1993 Scheme

The major changes that have been made to the Scheme since its inception are summarized in the Table below:

Date	Events
November 12, 1993	The Scheme was notified with effect from April 1, 1992. Companies required a track record of good performance.

May 22, 1998	Unlisted companies to comply with domestic listing conditions within three years of making profit.
June 23, 1998	DR linked employee stock options permitted for software companies.
March 2, 2001	Two-way fungibility permitted subject to guidelines to be announced by RBI.
July 29, 2002	Companies permitted to sponsor DR issue at a price determined by lead manager. All shareholders of a company would get opportunity to offer shares against which the DRs would be issued.
August 31, 2005	Such issues need to conform with FDI policy. Companies ineligible to access capital markets made ineligible to issue DRs. Unlisted companies issuing DRs to simultaneously list underlying shares on Indian exchange. Introduced pricing guidelines for such DR issue based on prevailing price of the underlying share on the Indian exchange. Erstwhile Overseas Corporate Bodies [OCBs] prohibited from buying DRs. Pricing of DRs against shares of unlisted companies as per RBI regulations.
September 14, 2005	Exempted unlisted companies from simultaneous listing if they had taken verifiable effective steps and completed issue by December 31, 2005.
November 17, 2005	Companies doing a domestic offering and a simultaneous follow on DR offering abroad exempted from pricing norms.
November 27, 2005	Such companies must price DRs at or above domestic price. Such companies needed approval for such issue from SEBI. Pricing norms for issue of DRs aligned with pricing norms by SEBI for qualified
2008	Institutional Placements [qIPs]. Unlisted companies allowed to raise capital abroad by issuing DRs without undergoing simultaneous listing.
October 11, 2013	Such DRs must be listed in IOSCO and FATF compliant jurisdictions. Such companies must comply with SEBI disclosure norms. Raising of capital abroad must be complaint with FDI norms.

The issuance of this notification comes in the backdrop of limiting the increasing current account deficit and with very few successful Initial Public Offers of Indian companies in recent times. The Ministry of Finance has permitted Indian unlisted companies to list their American depository receipts (ADR) global depository





➤ While raising resources abroad, the listing company shall be fully compliant with the fDI Policy in force including the sectoral caps, entry route, minimum capitalization norms and pricing norms. The unlisted Indian company shall comply with the instructions on downstream investment as notified by the Reserve bank from time to time. The proposed issue is required to be compliant with the extant fDI Policy.

receipts (GDR) or foreign currency convertible bonds (FCCB) abroad on a pilot basis for two years without a listing requirement in India. The Reserve Bank of India has followed this up with a circular dated November 8, 2013 to the authorized dealers about the amendments to the Scheme. The Notification has amended regulation 3(1) (B) of the 1993 Scheme by replacing the words “Unlisted Indian Companies Issuing Global Depository Receipts/Foreign Currency Convertible Bonds shall be required to simultaneously list in the Indian Stock Exchange(s)”. Now this restriction has been removed and unlisted Indian companies issuing GDR/FCCB may raise capital abroad subject to certain conditions which are discussed in this article.

ElIGIBIlITy

DRs are issued in accordance with the scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 (hereinafter referred as the 1993 Scheme) and guidelines issued by the Central Government from time to time.

For an Indian company opting to issue ADRs the 1993 Scheme stipulated prior permission from the Department of Economic Affairs, Ministry of Finance, and Government of India Subject to the condition that: (a) such company has a consistent track record of good performance, financial or otherwise, for a minimum period of three years and (b) Final approval of the issue structure from the Department of Economic Affairs.

ConDITIonS foR ISSUE of DEPoSIToRy RECEIPTS

The Companies (Issue of Global Depository Receipts) Rules, 2014 has laid down the following conditions:

(a) The Board of Directors of the company intending to issue depository receipts shall pass a resolution authorising the

company to do so.

- (b) The company shall take prior approval of its shareholders by a special resolution to be passed at a general meeting. A special resolution passed under section 62 of the Companies Act, 2013 for issue of shares underlying the depository receipts, shall be deemed to be a special resolution for the purpose of section 41 of the Companies Act, 2013, as well.
- (c) The depository receipts shall be issued by an overseas depository bank appointed by the company and the underlying shares shall be kept in the custody of a domestic custodian bank.
- (d) The company shall ensure that all the applicable provisions of the 1993 Scheme and the rules or regulations or guidelines issued by the Reserve Bank of India are complied with before and after the issue of depository receipts.
- (e) The company shall appoint a merchant banker or a practising chartered accountant or a practising cost accountant or a practising company secretary to oversee all the compliances relating to issue of depository receipts and the compliance report taken from such merchant banker or practising chartered accountant or practising cost accountant or practising company secretary, as the case may be, shall be placed at the meeting of the Board of Directors of the company or of the committee of the Board of directors authorised by the Board in this regard to be held immediately after closure of all formalities of the issue of depository receipts.
- (f) The committee of the Board of directors referred to above shall have at least one independent director in case the company is required to have independent directors.

MAAnER AnD foRM of DEPoSIToRy RECEIPTS

The Companies (Issue of Global Depository Receipts) Rules, 2014 has prescribed the following:

- (a) The depository receipts can be issued by way of public offering or private placement or in any other manner prevalent abroad and may be listed or traded in an overseas listing or trading platform.
- (b) The depository receipts may be issued against issue of new shares or may be sponsored against shares held by shareholders of the company.
- (c) The underlying shares shall be allotted in the name of the overseas depository bank and against such shares, the depository receipts shall be issued by the overseas depository bank abroad.





Article

OVERSEAS LISTING BY INDIAN UNLISTED COMPANIES

WHERE FCCBs/DRS CAN BE LISTED

Unlisted companies shall list abroad only on exchanges in IOSCO/FATF compliant jurisdictions or those jurisdictions with which SEBI has signed bilateral agreements.

The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a “policy-making body” which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.

The FATF has developed a series of recommendations that are recognised as the international standard for combating of money laundering and the financing of terrorism and proliferation of weapons of mass destruction. They form the basis for a co-ordinated response to these threats to the integrity of the financial system and help ensure a level playing field. First issued in 1990, the FATF Recommendations were revised in 1996, 2001, 2003 and most recently in 2012 to ensure that they remain up to date and relevant, and they are intended to be of universal application.

The FATF monitors the progress of its members in implementing necessary measures, reviews money laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally. In collaboration with other international stakeholders, the FATF works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.

The FATF currently comprises 34 member jurisdictions and 2 regional organisations, representing most major financial centres in all parts of the globe.

Argentina	Finland	Ireland	Russian Federation
Australia	France	Italy	Singapore
Austria	Germany	Japan	South Africa
Belgium	Greece	Republic of Korea	Spain
Brazil	Gulf Co-operation Council	Luxembourg	Sweden
Canada	China	Mexico	Switzerland
China	Hong Kong, China	Netherlands, Kingdom of	Turkey
Denmark	Iceland	New Zealand	United Kingdom
European Commission	India	Norway	United States
		Portugal	

The International Organization of Securities Commissions (IOSCO), established in 1983, is the acknowledged international body that brings together the world’s securities regulators and is recognized as the global standard setter for the securities

sector. IOSCO develops, implements, and promotes adherence to internationally recognized standards for securities regulation, and is working intensively with the G20 and the Financial Stability Board (FSB) on the global regulatory reform agenda.

IOSCO's membership regulates more than 95% of the world's securities markets. Its members include over 120 securities regulators and 80 other securities markets participants (i.e. stock exchanges, financial regional and international organizations etc.). IOSCO is the only international financial regulatory organization which includes all the major emerging markets jurisdictions within its membership.

COMPLIANCE WITH FDI REGULATIONS & DOWNSTREAM INVESTMENT GUIDELINES

While raising resources abroad, the listing company shall be fully compliant with the FDI Policy in force including the sectoral caps, entry route, minimum capitalization norms and pricing norms. The unlisted Indian company shall comply with the instructions on downstream investment as notified by the Reserve Bank from time to time. The proposed issue is required to be compliant with the extant FDI Policy. The Scheme states that an investment made in a company through GDRs/FCCBs shall be treated as FDI and shall be restricted to 51% of the issued and subscribed share capital of the issuing company. The Scheme has to be read in conjunction with the FDI policy, and in effect even if FDI in a particular sector is permitted above 51%, investment by way of GDRs/FCCBs shall be restricted to only 51%.

DETERMINATION of EQUITY SHARES UPFRONT

The number of underlying equity shares offered for issuance of ADRs/GDRs to be kept with the local custodian shall be determined upfront and ratio of ADRs/GDRs to equity shares shall be decided





upfront based on applicable FDI pricing norms of equity shares of unlisted company. ADRs / GDRs are issued on the basis of the ratio worked out by the Indian company in consultation with the Lead Manager to the issue.

UTILIZATION of PROCEEDS

The capital raised abroad may be utilised for retiring outstanding overseas debt or for operations abroad including for acquisitions. In case the funds raised are not utilised abroad as stipulated above, such companies shall remit the money back to India within 15 days and such money shall be parked only in AD category banks recognised by RBI and may be used domestically. The proceeds so raised have to be kept abroad till actually required in India. Pending repatriation or utilisation of the proceeds, the Indian company can invest the funds in (a) Deposits with or Certificate of Deposit or other instruments offered by banks who have been rated by Standard and Poor, Fitch or Moody's, etc. and such rating not being less than the rating stipulated by the Reserve Bank from time to time for the purpose; (b) Deposits with branch/es of Indian Authorised Dealers outside India; and (c) Treasury bills and other monetary instruments with a maturity or unexpired maturity of one year or less.

There are no end-use restrictions except a ban on deployment / investment of such funds in real estate or the stock market. There is no monetary limit up to which an Indian company can raise ADRs / GDRs. The ADR / GDR proceeds can be utilised for first stage acquisition of shares in the disinvestment process of Public Sector Undertakings / Enterprises and also in the mandatory second stage offer to the public in view of their strategic importance. While the Government's intentions seems to ensure that the funds, if raised for offshore purposes are not utilized for such bona fide purposes, it must not lie outside India, the period for the utilization seems to be rather short.

To avail of the offshore utilization option as per the Scheme, the issuing company may have to structure the issuance in a manner that they are not forced to repatriate the funds to India due to their inability to use such funds within a period of 15 days. The utilization of funds for an acquisition offshore would practically be a challenge, considering that the funds will have to be utilized within 15 days of the listing.

REMITTANCE of PROCEEDS of ISSUE

The Companies (Issue of Global Depository Receipts) Rules, 2014 has laid down that the proceeds of issues of depository receipts shall either be remitted to a bank account in India or deposited in an Indian bank operating abroad or any foreign bank (which is a Scheduled Bank under the Reserve Bank of India Act, 1934) having operations in India with an agreement that the foreign bank having operations in India shall take responsibility for furnishing all the information which may be required and in the event of a sponsored

issue of Depository Receipts, the proceeds of the sale shall be credited to the respective bank account of the shareholders.

VOtInG RIGhTS

Voting rights on shares issued under the Scheme shall be as per the provisions of Companies Act, 1956 / 2013 and in a manner in which restrictions on voting rights imposed on ADR/GDR issues shall be consistent with the Company Law provisions. Voting rights in the case of banking companies will continue to be in terms of the provisions of the Banking Regulation Act, 1949 and the instructions issued by the Reserve Bank from time to time, as applicable to all shareholders exercising voting rights.

The Requirements as to voting rights as laid down in Companies (Issue of Global Depository Receipts) Rules, 2014 are as under:

A holder of depository receipts may become a member of the company and shall be entitled to vote as such only on conversion of the depository receipts into underlying shares after following the procedure provided in the Scheme and the provisions of Companies Act, 2013.

Until the conversion of depository receipts, the overseas depository shall be entitled to vote on behalf of the holders of depository receipts in accordance with the provisions of the agreement entered into between the depository, holders of depository receipts and the company in this regard.

EnTITIES WhIch CAnnoT PARTICIPATE In ADR / GDR ISSUE

Erstwhile OCBs which are not eligible to invest in India and entities prohibited to buy / sell or deal in securities by SEBI will not be eligible to subscribe to ADRs / GDRs issued by Indian companies.





Article

OVERSEAS LISTING BY INDIAN UNLISTED COMPANIES

PRICING

The pricing of ADR / GDR issues including sponsored ADRs / GDRs should be made at a price determined under the provisions of the Scheme of issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Government of India and directions issued by the Reserve Bank, from time to time.

A. For Listed Companies

Issues should be made at a price not less than the higher of the following two averages: (i) the average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date; (ii) the average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date.

The relevant date will be the date thirty days prior to the date on which the meeting of the general body of shareholders is held, in terms of provisions of the Companies Act, 2013, to consider the proposed issue.

B. For Unlisted Companies

Pricing of ADRs to be issued to a person resident outside India shall be determined in accordance with the scheme as prescribed under FEMA regulations. However the pricing norms under the FDI Policy shall not apply in case of transfers of GDRs between non-residents.

Two-way fungibility scheme

A limited two-way fungibility scheme has been put in place by the Government of India for ADRs / GDRs. Under this Scheme, a stock broker in India, registered with SEBI, can purchase shares of an Indian company from the market for conversion into ADRs/ GDRs based on instructions received from overseas investors. Re-issuance of ADRs / GDRs would be permitted to the extent of ADRs / GDRs which have been redeemed into underlying shares and sold in the Indian market.

Reporting of ADR/GDR Issues

Filing with SEBI

A copy of return filed with the offshore exchange will also have to be filed with SEBI for the purposes of the Prevention of Money Laundering Act. They shall comply with SEBI's disclosure requirements in addition to that of the primary exchange prior to the listing abroad.

One time Filing with RBI

The Indian company issuing ADRs / GDRs has to furnish to RBI, full details of such issue in the Form DR as per Annex -10 to the

RBI Master Circular 2014, within 30 days from the date of closing of the issue.

Quarterly Reporting to RBI

The company should also furnish a quarterly return in the Form DR quarterly as per Annex – 11 to the RBI Master Circular 2014, to RBI within 15 days of the close of the calendar quarter. The quarterly return has to be submitted till the entire amount raised through ADR/GDR mechanism is either repatriated to India or utilized abroad as per the extant Reserve Bank guidelines. Further the quarterly return has to be certified by a Chartered Accountant. The quarterly return should contain the following details:

1. Name of the Company
2. Address
3. GDR/ADR issue launched on
4. Total No. of GDRs/ADRs issued
5. Total amount raised
6. Total interest earned till end of quarter
7. Issue expenses and commission etc.
8. Amount repatriated
9. Balance kept abroad - Details
 - (i) Banks Deposits
 - (ii) Treasury Bills
 - (iii) Others (please specify)
10. No. of GDRs/ADRs still outstanding
11. Company's share price at the end of the quarter
12. GDRs/ADRs price quoted on overseas stock exchange as at the end of the quarter

SPonSoRED ADR/GDR ISSUE

An Indian company can also sponsor an issue of ADR / GDR. Under this mechanism, the company offers its resident shareholders a choice to submit their shares back to the company so that on the basis of such shares, ADRs / GDRs can be issued abroad. The proceeds of the ADR / GDR issue is remitted back to India and distributed among the resident investors who had offered their Rupee denominated shares for conversion. These proceeds can





be kept in Resident Foreign Currency (Domestic) accounts in India by the resident shareholders who have tendered such shares for conversion into ADRs / GDRs.

RATIonAIE

Bringing down Offshore structures: The move from the MoF is aimed at providing encouragement for Indian companies seeking funds from abroad to directly tap the offshore capital markets and from limiting setting up offshore companies.

Uncertainty over review period and changes thereafter: The intent of the change is to permit unlisted companies to issue DRs/ FCCBs for a period of two years from the date of the Notification, after which the relaxation may be withdrawn.

REVIEW PERIoD foR ThE SCHEME

The Circular mentions that the Scheme will be implemented subject to review after a period of two years. This has led to some ambiguity on the applicability of the changes and it remains to be seen whether following the review the scheme of allowing such offshore listings, without listing will be continue to be available to unlisted Indian companies.

While the relaxation of the requirement to list in a domestic exchange simultaneously is available, there is still uncertainty that companies that list overseas under this route would be permitted to remain unlisted in domestic exchanges, even if the proposed relaxation is withdrawn later.

non - APPIICAbIlITy of CERTAIN PRovISIonS of ThE CoMPANIES ACT, 2013

[As laid down in Companies (Issue of Global Depository Receipts) Rules, 2014]

- (a.) The provisions of the Companies Act, 2013 and any rules issued thereunder insofar as they relate to public issue of shares or debentures shall not apply to issue of depository receipts abroad.
- (b.) The offer document, by whatever name called and if prepared for the issue of depository receipts, shall not be treated as a prospectus or an offer document within the meaning of Companies Act, 2013 and all the provisions as applicable to a prospectus or an offer document shall not apply to a depository receipts offer document.
- (c.) Until the redemption of depository receipts, the name of the overseas depository bank shall be entered in the Register of Members of the company.

Brief Summary of the Issue Process

1. The issuer company must:
 - (a) convene a board meeting to approve the proposed DR issue not exceeding a certain value in foreign currency;
 - (b) convene an Extraordinary General Meeting (EGM) for the approval of the shareholders for the proposed DR issue under section 62 of the Companies Act, 2013;
 - (c) identify the agencies whose participation or permission it would require for the DR issuance;
 - (d) convene a board meeting to approve the agencies;
 - (e) appoint the agencies and sign the engagement letters.
2. Undertake due diligence.
3. Draft the information memorandum in consultation with the Indian legal counsel and submit the same to various agencies for their comments for finalization.
4. The listing agent must submit the information memorandum to the overseas stock exchange for their comments and in principle listing approval.
5. The issuer company must simultaneously submit the draft information memorandum to Indian stock exchanges where the issuing company's shares are listed for in principle approval for listing of the underlying shares.
6. Pursuant to steps 4 and 5, on receipt of the comments on the information memorandum from the overseas and Indian stock exchanges, the Indian issuer company must incorporate the same and file the final information memorandum with the overseas and Indian stock exchange and obtain final listing.
7. The Indian issuer company can open the issue for the DR on receipt of the in principle listing approval from the overseas and the Indian stock exchanges.
8. The Indian issuer company must open the escrow account with the escrow agent and execute the escrow agreement.
9. The Indian issuer company, in consultation with the lead manager (merchantbanker), must finalise: (a) whether the DRs will be through public or private placement; (b) the number of DRs to be issued.; (c) the issue price;(d) number of underlying shares to be issued against each DR.
10. On the day of opening of the issue, the Indian issuer company must execute the deposit and subscription agreements.
11. The issue should be kept open for a minimum of three working days.





Article

OVERSEAS LISTING BY INDIAN UNLISTED COMPANIES

12. Immediately on closing of the issue, the Indian issuer company must convene a board or committee meeting for allotment of the underlying shares against the Market for depository receipts and the domestic market issue of the DRs.
13. The Indian issuer company must deliver the share certificate to the domestic custodian bank who will in terms of the deposit agreement instruct the overseas depository bank to issue the DRs to non-resident investors against the shares held by the domestic custodian bank.
14. On receipt of listing approval from the overseas stock exchange, the Indian issuer company must submit the required documents for final in principle listing approval from the Indian stock exchange.
15. After DRs are listed, the lead manager must instruct the escrow agent to transfer the funds to the Indian issuer company's account.
16. The Indian issuer company can either remit all or part of the funds, as per its discretion.
17. On obtaining the final approval from the Indian stock exchange, the Indian issuer company can admit the underlying shares to the depository, that is, National Securities Depository Limited (NSDL) or Central Depository Services (India) Limited (CDSL).
18. The Indian issuer company must obtain trading approval from the stock exchange.
19. The Indian issuer company must intimate the custodian for converting the physical shares into dematerialised form.
20. Within 30 days of the closing of the DR issue, details of the DR issue along with the information memorandum should be submitted to various authorities.
21. Return of allotment is to be filed with Registrar of Companies within 30 days of allotment.
22. Indian issuing company is to file a specified format annexed to Schedule I, FEMA 20 with RBI, Central Office within 30 days of closure of the DR issue Form DR.
23. The Indian issuing company is to file a quarterly return in a specified format Form DR quarterly annexed to Schedule I, FEMA 20 within 15 days of the close of the calendar quarter.

Appointment



Office No.1004, 10th floor, Naman Centre, Plot C 31, G Block Bandra Kurla Complex, Bandra East, Mumbai – 400 051

India SME Asset Reconstruction Co Ltd. (ISARC) is a Securitisation and Asset Reconstruction Company registered with Reserve Bank of India under Sec 3 of the SARFAESI Act that strives for speedier resolution of NPAs in the MSME sector. ISARC has been promoted by SIDBI along with SIDBI Venture Capital Ltd., Bank of Baroda and United Bank of India as other sponsors and 10 other Public Sector Banks, LIC and 4 State level institutions as shareholders. ISARC is looking for a Company Secretary who should be a member of Institute of Company Secretaries of India, with experience of not less than 4 years post qualification with specific experience in all matters pertaining to Company Law, Secretarial functions, Legal, Finance Accounts, Income Tax, Sales Tax & Insurance etc. & Age not exceeding 35 years as on March 31, 2015. Policy on reservation as per Government guidelines will be followed. Please see the website www.isarc.in for detailed eligibility criteria.

The eligible candidates shall apply in the prescribed form by downloading the same from our website www.isarc.in. Application in sealed cover super scribed "Application for the post of Company Secretary" may be submitted to the address mentioned above on or before April 30, 2015.



**Rajendra Sawant, FCS**

Company Secretary
Welspun Enterprises Ltd.
Mumbai

rdsawant@hotmail.com

breach of Contract And Its Consequences Under Indian Contract Act, 1872 : A brief overview



The principle behind awarding damage for breach of contract to the party, who has suffered the loss, is to place that party in the same position in which it would have been, had that contract not broken. The damages must commensurate with the loss suffered. Where a contract is broken by one party, contract is discharged, and the obligations under the contract, comes to end; a new obligation arises for payment of damages.

bREACH of ConTRACT

When a contract is made between parties, it creates a binding legal relationship among the parties to contract. The parties make their own terms and conditions governing relationship among themselves and to safeguard their interest under the contract. The parties having accepted the terms and conditions, impose upon themselves the obligation to perform their respective promises and agree to abide by the terms and conditions of the contract.

Contract is breached or broken when any of the parties fails or refuses to perform its promise under the contract. When a party having a duty to perform its promise fails to perform its promise or does an act whereby the performance of his promise by him becomes impossible, or refuses to perform his promise, there is said to be a breach of contract on his part. Breach of contract is a legal cause of action in which a binding agreement is not honoured by one or more parties by non-performance of its promise or doing an act by which the performance of party's promise by him renders impossible.





Article

BREACH OF CONTRACT AND ITS CONSEQUENCES UNDER INDIAN CONTRACT ACT, 1872 : A BRIEF OVERVIEW

Section 37 of Indian Contract Act, 1872 provides that the parties to the contract are under obligation to perform or offer to perform, their respective promises under the contract, unless such performance is dispensed with or excused under the provisions of the Indian Contract Act or of any other law.

According to Section 39 where the party has refused to perform, or disabled himself from performing, his promise in its entirety, the other party may put an end to the contract, unless that other party has expressly or impliedly signified its consent for the continuance of contract. If the other party chooses to put an end to contract, the contract is said to be broken and amounts to breach of contract by the party not performing or refusing to perform its promise under the contract. This is called repudiation. Thus, repudiation can occur when either party refuses to perform his part, or makes it impossible for him to perform or even fails to perform his part of contract in each of the cases in such a manner as to show an intention not to fulfil his part of the contract.

ESSEnTIAL ConDITIon of 'ConTRACT' AnD 'WARRAnTy'

Where the essential condition or warranty forms part of the contract, the contract is breached when the party responsible for fulfilment of essential condition or warranty, fails to fulfil essential condition or warranty undertaken under contract.

It is important to understand the difference between essential condition of the 'contract' and 'warranty'. A condition of contract is a clause 'going to the essence of contract' and a 'warranty' is a clause which is 'only collateral to the contract'. A condition may be a pre-condition for entering into the contract i.e. condition precedent or condition required for performance of contract i.e. condition subsequent. The test of essential conditions is whether the promise is of such importance to the promisee that he could not have entered into contract without an assurance of a strict or substantial performance of the promise, and that ought to have been made clear to the promisor.

Warranty is a term collateral to the main purpose of contract. A warranty is a statement or representation, though forming part of the contract, but not virtually important to subject matter. It is merely collateral to the main performance of the contract.

The importance of distinction between essential condition of contract and warranty is that in case of breach of essential condition, the innocent party, on becoming aware of the breach, can consider itself discharged and sue for damages for loss of the contract or affirm the contract and recover the damages for particular breach. In case of breach of warranty, the innocent party can claim damages only for particular breach and not for the loss of the contract.

Illustrations of 'essential condition of

contract'

- (a) A contracts with B, to purchase vacant possession of land from B on specified date against agreed consideration. If B fails to deliver vacant possession of land to A on specified date against receipt of agreed consideration, B is in breach of essential condition of contract.
- (b) A contracts to supply B with certain specification and grade of iron at agreed price. A delivers iron which is of different specification and grade, A is in breach of essential conditions of contract.

In the both the above instances, the innocent party is entitled to terminate contract and sue for damages or affirm the contract and sue for damages.

Illustration of 'warranty'

- (a) A contracts with B to rent his house for certain period with condition that on the expiry of rent period, B shall handover the possession of house in same state and condition it was in at the time of contract. If B fails to handover possession of house in same state and condition it was, A is entitled to recover the damages for rectification of house.
- (b) A contracts with B to sell property and agrees that any statutory liability of the property relating to period prior to sale of property shall be borne by A. If any prior period statutory liability of the property occurs, B is entitled to claim damages from A to the extent of prior period statutory liability.

CONSEQUENCES OF BREACH OF CONTRACT

Chapter VI (Section 73 to 75) of the Indian Contract Act, 1872 deals with the consequences of the breach of the contract.





Section 73. Compensation for loss or damage caused by breach of contract

When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.

Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.

Compensation for failure to discharge obligation resembling those created by contract

When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default, as if such person had contracted to discharge it and had broken his contract.

Explanation.-In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account.

There are around 18 illustrations to Section 73. These illustrations represent the general rules that can be followed while interpreting the Section 73. (BR Herman and Mohantta v Asiatic Steam Navigation Co. Ltd., (1956) 3 All ER 300).

Compensation for loss or damage which naturally arose in the usual course of things from such breach

There are four paragraphs to the Section 73, the first paragraph deals with the compensation for the loss or damage caused due to the breach of contract. It provides that where the contract is broken,

the aggrieved party or the party suffering from the breach of the contract is entitled to receive compensation for loss or damages, from the party who has broken the contract. The compensation to be recovered for loss or damages that which naturally arose in the usual course of things from such breach, or which the parties knew, when they made contract, to be likely to result from the breach of it.

Remote and indirect loss or Damage

The second paragraph of the Section 73 deals with compensation for indirect loss or damage arising out breach of contract. It states that no compensation is payable for remote and indirect loss or damage arising on account of breach of contract.

The indirect loss or loss of profit cannot be said to arise on usual course of things. The aggrieved party can claim compensation for indirect loss or loss of profit, only where it is expressly made known to the other party or contemplated by the contract that breach or non-performance of the contract would result in some indirect loss or loss of profit to the party. The term remoteness of damages refers to the legal test used for deciding which type of loss caused by the breach of contract may be compensated by an award of damage. The rules regarding remoteness of damages are found in *Hadley v. Baxendale*, 9, Ex. 341: 96 R.R. 742. Section 73 and various cases clearly provide that knowledge of circumstances leading to loss of profits to the party not in default imposes liability on the party in breach of contract. In *Victoria Laundry (Windsor Ltd.) v. Newman Industries Ltd.* (1949) 2 K.B. 528, 537, the Court of Appeal held that under the circumstances the defendant as a reasonable man could have foreseen some loss of profit though not the loss under the special contract of dyeing of which he had no knowledge. In addition, it was also clarified that mere knowledge was not enough. It should have been brought to the knowledge of the defendant that he accepts the contract with that knowledge.

The House of Lords in England in *Koufos v. C. Czarnikow Ltd.* (1969) 1 A.C. 350, has enunciated the following principles:

“(2) In case of breach of contract, the aggrieved party is only entitled to recover such part of the loss actually resulting as was at the time of the contract reasonably foreseeable as liable to result from the breach....”





Article

BREACH OF CONTRACT AND ITS CONSEQUENCES UNDER INDIAN CONTRACT ACT, 1872 : A BRIEF OVERVIEW



The essence of liquidated damages is a genuine and reasonable pre-estimate of damage. liquidated damages mean that it shall be taken as the sum which the parties have by the contract assessed as damages to be paid whatever may be the actual damage. A fixed figure of damage, which is not assessed for all circumstances, but is graduated to correspond with passage of time between the making of contract and of its breach, is a proper estimate of the damages to be anticipated from the breach, and is recoverable as liquidated damages.

“(3) What was at that time reasonably so foreseeable depends on the knowledge then possessed by the parties or at all events, by the party who later commits the breach....”

“(4) For this purpose, knowledge ‘possessed’ is of two kinds: one imputed, the other actual. Everyone, as a reasonable person, is taken to know the ‘ordinary course of things and consequently what loss is liable to result from a breach of contract in that ordinary course.’ But to this knowledge which a contract breaker is assumed to possess whether he actually possesses it or not, there may have to be added in a particular case – knowledge which he actually possesses, of special circumstances outside the ‘ordinary course of things’ of such a kind that a breach in those special circumstances would be liable to cause more loss.”

bREACH of RESEMBlInG ConTRACT

The third paragraph of Section 73 provides for compensation for loss or damages for breach of resembling contract. It confers a statutory right upon a party to get compensation from a party who has incurred a statutory obligation to pay compensation in case of default even though there may be no contract to pay compensation. The party in default is under obligation to pay compensation to injured party as if there was contract and has broken such contract.

Illustration : A is the legal heir of deceased person whose property is acquired by the government under the Land Acquisition Act. However the government by mistake pays compensation to B instead of A. B is under a statutory obligation to repay compensation amount received from government to A even though there is no contract between A and B.

MITIGATION of loSSES

The fourth paragraph of Section 73 is by way of explanation which provides that the means which existed of remedying the inconvenience caused by the non-performance of the contract must be considered while calculating the damage or loss for breach of the contract.

Section 73 imposes a duty on the party seeking damages to mitigate its loss. The principle of mitigation of loss does not give any right to the party who is in breach of the contract but it is a concept that has to be borne, in mind by the court while awarding damages [M. Lachia Setty & Sons Ltd v Coffee Board Bangalore, AIR 1981 SC 162, 168]. The non-defaulting party is not expected to take steps which would injure innocent persons.

The general principles deducible from the various judgments of the Supreme Court are the following:

- (i) The plaintiff who has proved the breach of contract is under a statutory duty to take all reasonable steps to mitigate the loss consequent on the breach of contract.
- (ii) Where the plaintiff fails to take reasonable steps to mitigate the loss consequent on the breach of contract, he will be debarred from claiming damages to the extent he could have mitigated the same by taking such steps.

SECTIon 74. CoMPEnSATIon foR bREACH of ConTRACT WhERE PENAlTY





▶ A party who is claiming the damage need not necessarily suffer any loss from breach of contract. When it is contemplated by the contract that breach by any of the parties to the contract is likely to cause loss to an identified or identifiable stranger to the contract, rather than to the contracting party, a party not in default can claim damages for the loss caused to an identified or identifiable stranger to the contract.

STIPUATED foR

The parties to the contract may agree at the time of contracting that, in the event of breach, the party in default shall pay a stipulated sum of money to the other, or may agree that in event of breach by one party any amount paid by him shall be forfeited. If this sum is genuine pre-estimate of damage likely to flow from the breach is called 'liquidated damages'. If it is not genuine pre-estimate of the loss, but an amount intended to secure performance of the contract, it may be called as 'penalty'.

Section 74 provides for the measure of damages in two classes: (i) where the contract names a sum to be paid in case of breach; and (ii) where the contract contains any other stipulation by way of penalty. In both the cases the measure of damages is by section 74, reasonable compensation not exceeding the amount or penalty stipulated for (Fateh Chand v. Balkrishna Das, [1964] 1 SCR 515).

PEnAITy AnD lIqUIDATED DAMAGE

The essence of a penalty is a payment of money to non-defaulting party, which put the other party in fear and enforces the other party to perform its promise under the contract. The penalty is deterrent in nature. Where under the terms of the contract the party in breach has undertaken to pay a sum of money or to forfeit a sum of money which he has already paid to the party complaining of a contract, the undertaking is of the nature of a penalty.

The essence of liquidated damages is a genuine and reasonable pre-estimate of damage. Liquidated damages mean that it shall be taken as the sum which the parties have by the contract assessed as damages to be paid whatever may be the actual damage. A fixed figure of damage, which is not assessed for all circumstances, but is graduated to correspond with passage of time between the making of contract and of its breach, is a proper estimate of the damages to be anticipated from the breach, and is recoverable

as liquidated damages.

When the contract does not stipulate the quantum of damages, the court will assess and award compensation in accordance with the principles laid down in Section 73. Where the contract stipulates the quantum of damages or amounts to be recovered as damages, then the party complaining of breach can recover reasonable compensation, the stipulated amount being merely the outside limit. (ITC Ltd v. Oberoi Mall (P) Ltd., 2011 (105) CLA 231).

Under the general rule of the proof of damages the loss suffered would have to be proved by the party claiming it under Section 73 of the Contract Act. Section 74 is in the nature of exception. If the parties quantified the loss that they would suffer and mention it in their contract as payable by the party in breach of the contract it would be a pre-estimated damage. A reasonable and genuine pre-estimate of the damage is payable without proof of loss. If the pre-estimate is in nature of penalty, the loss would have to be proved for claiming the penalty.

The imposition and the recovery of penalty on breach of a contract is legally impermissible under the Indian Contract Act. As regards liquidated damages, the court would have to scrutinize the pleadings as well as evidence proof thereof, in order to determine that they are not in the nature of a penalty, but rather as a fair pre-estimate of what the damages are likely to arise in case of breach of the contract. (Maya Devi v. Lalita Prasad, SC CA 2458 of 2014).

SECTIon 75. CoMPEnSATIon To ThE PARTy RIGHtFULLy RESCInDInG ThE CoNTRACT

A person who rightfully rescinds the contract is entitled to compensation for any damage which he has sustained through





Article

BREACH OF CONTRACT AND ITS CONSEQUENCES UNDER INDIAN CONTRACT ACT, 1872 : A BRIEF OVERVIEW

non fulfillment of the contract. A party to a contract is entitled to rescind the contract in circumstances given in Sections 39, 53, 55, 64 and 65 of the Contract Act. The claim for compensation under Section 75 is maintainable when the right of repudiation of the contract has been exercised either of the Section 39, 53, 54 or 55 of the Contract Act. (Mirza Javed Murtaza v. UP Financial Corpn), Kanpur, AIR 1983 All. 235.)

Who Can CLAIM DAMAGE

The party claiming damages for breach of contract should have performed or is willing to perform his part of the obligations arising under the contract. Sections 73 and 74 are for the benefit of a party willing to perform the contract and not for defaulting party. Loss which is caused by the party's failure to fulfil his duty is not recoverable from the other party. A party to a contract cannot be in better position by reason of his own default, than if he had fulfilled his obligations. A person, who is not a party to the contract, cannot claim damages.

Can DAMAGE OR LOSS SUFFERED by THIRD PARTY be CLAIMED?

A party who is claiming the damage need not necessarily suffer any loss from breach of contract. When it is contemplated by the contract that breach by any of the parties to the contract is likely to cause loss to an identified or identifiable stranger to the contract, rather than to the contracting party, a party not in default can claim damages for the loss caused to an identified or identifiable stranger to the contract. Thus the party may recover substantial damages even though it does not personally bear the cost of correcting the defects or personally suffers the diminution in the value; provided this was intended or was within the contemplation of the parties; and if such intention or contemplation is shown it is immaterial that the true prayer or suffered is stranger to the contract. (Alfred McAlpine Constn Ltd v. Panatown Ltd., (2001) All ER (D) 41 (Apr)).

Can INTEREST be CLAIMED AS DAMAGE?

Interest represents the profit which a person would have made if he had used that money or loss which he suffered because he could not use that money. The Supreme Court in Mahavir Prasad Rungta v Durga Dutta, 1961 AIR 990 has ruled that interest can be claimed only if it is payable by custom or there is express or implied provision in the agreement for payment of interest or under provisions of substantive law plaintiff is entitled to recover the interest. Interest would be refused if the party fails to show that interest is being claimed under a contract or on account of usage or customs.

Illustration (n) to Section 73 provides that where there is breach

of contract to pay a sum of money to the other party, the party in default is not liable to make good to the aggrieved party except the principal sum he contracted to pay, together with interest upon date of payment.

NATURE of THE REMEDY of DAMAGE

The principle behind awarding damage for breach of contract to the party, who has suffered the loss, is to place that party in the same position in which it would have been, had that contract not broken. The damages must commensurate with the loss suffered. Where a contract is broken by one party, contract is discharged, and the obligations under the contract, comes to end; a new obligations arises for payment of damages.

DAMAGES AND INDEMNITY

Damage differs from indemnity. There is distinction between the right to indemnity, and the right to damage. The right to indemnity arises out of the original contract of indemnity, and the right to damage arises on the breach of contract. The two rights are often confused, because when a contract is broken, indemnity is often found to coincide with the measure of damages. In such case, whether the right is called right to indemnity or right to damages, the result is the same; yet the two words are fundamentally different ideas. (Krishnaswami Iyer v Thathia Raghvaiah Chetty, (1927) 53 MLJ 679.

CONCLUSION

A contract is the fountainhead of a correlative set of rights and obligation of the parties and would be of no value if there is no statutory provision for compensation for damage or loss caused to the aggrieved party by reason of breach of the contract by the other party. Chapter VI of the Indian Contract Act, 1872 provides for remedy to the non-defaulting party to contract by way of compensation for damage or loss caused due to breach of contract by the other party. Section 73 provides for compensation for actual damage or loss from the party in breach of the contract. Section 74 provides that the parties to the contract may agree at the time of contracting that, in the event of breach, the party in default shall pay a stipulated sum of money to the other, or may agree that in the event of breach by one party any amount paid by him shall be forfeited. If this sum is genuine pre-estimate of damage likely to flow from the breach it is called 'liquidated damages'. Reasonable liquidated damages are payable without proof of loss. If it is not genuine pre-estimate of the loss, but an amount intended to secure performance of the contract, it may be called as 'penalty'. However mere stipulation of penalty in the agreement does not give right for compensation by way of penalty. The party claiming penalty, have to prove the loss or damages caused by breach of the contract.





IW: 30:04:2015

JYOTI LTD & ORS v. BHARAT J. PATEL & ORS
[SC]

Civil Appeal Nos. 2935-36 of 2015 (Arising out of Special Leave Petition (C) Nos.6513-6514 of 2015)

J. Chelameswar & R.K. Agrawal, JJ. [Decided on 17/03/2015]

Section 186 of the Companies Act 1956 read with section 9 of Civil Procedure Code, 1908 – disputes in holding general meeting – civil court admitted the suit filed by respondent – appellants contested that the issue should go before CLB – whether the civil court was right in admitting the suit – Held, No.

brief facts:

The respondents herein had filed a civil suit against the appellant company and sought certain interim reliefs for restraining from holding any meetings etc., Appellants contested that the suit is not maintainable as the proper remedy available is to approach the CLB under section 186. However, the suit was held to be maintainable and certain interim directions were also given. Hence, these appeals by special leave.

Decision: Appeals allowed.

Reason:

The maintainability of a suit is question of law. Though, by virtue of declaration under Section 9 of the Code of Civil Procedure, 1908, all suits of civil nature are maintainable unless barred either by an express provision or by implication of law. In the case on hand, when a specific stand is taken that in view of the provisions of Companies Act the suit is not maintainable, "the chequered history between the contesting parties and the chronology of the actions taken by the

respondents", in our opinion, do not decide the maintainability of the suit. We find the conclusion recorded by the High Court to be highly unsatisfactory.

The High Court at para 7.4 held that in view of the fact that from 31.12.2014 orders of status quo existed, the same is directed to be continued to be considered on the next date of hearing, i.e. 16.03.2015. In the interregnum, the High Court directed the appellants herein as follows:

"7.2 The respondents/original defendants, more particularly the respondent Company (original defendant No.1), are directed to consider the requisition notice in question dated 18.12.2014 given by the plaintiffs, and comply with the provisions of Rule 17(7) of the Companies (Management and Administration) Rules, 2014, within a period of one week from today. On receipt of such list of members as per rules, from the company, it would be open to the appellants, to take further actions in accordance with law, to convene the Extraordinary General Meeting of the Company, within the time stipulated under law. For this purpose, the time taken by the respondents in supplying the list of the members, as required under law, to the requisitionists (the plaintiffs), beyond what is permissible under Rule 17(7) of the Rules, shall not count against the plaintiffs.

7.3 It is directed that, any decision that may be taken, or the resolution that may be passed in the said Extraordinary General Meeting, shall not be given effect to, without prior permission of this Court, and further that, any business transacted at the said meeting and/ or any outcome thereof shall be subject to further orders that may be passed by this Court."

We are of the opinion that the directions in paras 7.2 and 7.3 are inconsistent with the directions in para 7.4. Apart from that, the fact that the orders of status quo were granted by the Chamber Judge during vacation, which have been continued from time to time without further consideration regarding the tenability of such orders, is no ground for continuing such orders. In the circumstances, we deem it appropriate to set aside the impugned order. Having regard to the various contentions raised by the parties, it is better that the appeal before the High Court itself is disposed of on merits expeditiously. Appeals are, accordingly, allowed.

IW: 31:04:2015

CASBY CFS PVT LTD v. CASBY LOGISTICS PVT LTD [BOM]

Company Scheme Petitions No.137 & 138 of 2014 connected with Company Summons for Directions No. 609 7 610 of 2013.

S.J. Kathawalla, J. [Decided on 19/03/2015]



Legal World

Companies Act, 1956 – sections 394 – regional directors right to object – objections raised on the ground that the appointed date fixed in the scheme was to avoid income tax compliances – dismissal of scheme sought – Held that RD has right to object and the court sanctioned the scheme with issuing certain directions.

brief facts:

Sanction of the Court was in respect of a scheme of amalgamation between Cas by CFS Private Limited ("Transferor") and Casby Logistics Private Limited ("Transferee") and their respective shareholders, where under the entire business and the whole of the undertaking of the Transferor shall stand transferred to and vest in the Transferee with effect from the appointed date in terms of the scheme proposed by the Petitioners.

The Regional Director raised objection to the petition that the idea of the Petitioners behind propounding the above scheme is inter alia to obtain sanction of this court to the scheme with the appointed date of 1st April, 2008, and thereafter to file revised Income Tax returns in violation of Section 139 (5) of the Income Tax Act and the whole purpose of fixing a retrospective appointed date is to defeat the income tax demands and assessment proceedings either in progress or completed and the retrospective appointed date is nothing but a device to defeat the provisions of the Income Tax Act, particularly Section 139 (5), and the scheme therefore needs to be rejected. The Income Tax Department by its letters dated 3rd December 2014 addressed to the Regional Director informed the Regional Director that they were supporting the views/stand taken by the Regional Director.

Decision: Scheme sanctioned with directions and imposing costs on the petitioners.

Reason: I have considered the submissions advanced on behalf of the Petitioners as well as the Regional Director qua the scheme providing for the appointed date as 1st April 2008. I have also considered the decisions relied upon by the Petitioners pointing out the limitations of the court while sanctioning a scheme filed under Section 394 of the Act. It is an undisputed proposition that the court can interfere with the decision/commercial wisdom of the shareholders if the Court is satisfied that the scheme has been framed with the intention of contravening the provision of any law. It is also well settled that the Court can interfere with the decision/commercial wisdom of the shareholders if the Court is satisfied that the scheme as framed in fact contravenes the provisions of any law, albeit unintentionally. There can be again no disagreement on the issue that the shareholders of companies are free to choose any date as an appointed date in their commercial wisdom. However, if the Regional Director nurtures any doubt qua any of the clauses in the scheme, including the date chosen as the appointed date, and finds that the same is contrary to law or apprehends that on the

strength of such a clause contained in the scheme, the Company, after obtaining sanction from the Court, may use or misuse the same for contravention of any law including the provisions of the Income Tax, he is entitled to voice his doubt/apprehension before the Court, at the time the Court considers the grant of sanction to the scheme and it is always open to the Court to consider the doubt/apprehension expressed by the Regional Director and pass necessary orders either rejecting the scheme or sanctioning the same with/or without necessary clarifications. I also do not agree with argument advanced by the Petitioners that the Regional Director cannot object to the scheme on the ground that the same violates the provisions of the Income Tax Act and it is only the Income Tax Authorities who may raise an objection and that too only within the period stipulated in the circular dated 15th January 2014. Since this Court is required to ensure that a scheme of amalgamation does not contravene any provision of law, in my view, the Regional Director is not only entitled to but is duty bound to bring to the attention of the Court any provision in the scheme which may KPPNair -24 contravene/circumvent the provisions of any law including the law pertaining to Income Tax. This is to ensure that a company does not obtain sanction of a scheme and thereafter use the same as a shield to protect itself from the consequences arising out of the contravention of provisions of law. In the present case itself, the Petitioners have included clause 6.2.1 in the scheme which expressly permits the Transferee inter alia to file revised Income Tax returns and that too notwithstanding the expiry of the statutory period for filing such returns and without satisfying the conditions stipulated by Section 139(5) of the Income Tax Act. The Regional Director has submitted that the Petitioners by the device of the scheme have planned to file revised Income Tax returns in breach of Section 139 (5) of the Income Tax Act and are seeking the sanction of this Court to perpetuate such an illegality. In support of his contention, the Regional Director has relied on several decisions of various High Courts which I have referred to above and which have held that a revised Income Tax Return can be filed if and only if the conditions stipulated in Section 139(5) are satisfied viz. (i) that the assessee discovers any omission or wrong statement in the Income Tax Return already filed and (ii) the revised Income Tax Return is filed before the expiry of one year from the end of the relevant Assessment Year or before the completion of the assessment whichever is earlier. In fact, it was only after the Regional Director made this submission that the Petitioners agreed to delete the said clause from the scheme. In the circumstances, but for the Regional Director's efforts in bringing these facts to the attention of the Court, the same would have gone unnoticed.

According to the Regional Director it is well settled that a revised income tax return can be filed if and only if the conditions stipulated in Section 139(5) are satisfied viz. (i) that the Assessee discovers any omission or wrong statement in the income tax return already filed, and (ii) the revised income tax return is filed before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment whichever is earlier. According to the Regional Director, once the scheme is sanctioned the Transferor and Transferee Companies will revise and restate their balance





sheets for the period from 1st April 2008 onwards and file revised income tax returns giving effect to the amalgamation for the period from 1st April 2008 onwards without satisfying the mandatory conditions prescribed by Section 139(5) of the Income Tax Act. The Regional Director further points out from the letters of the Income Tax dated 3rd December 2014 that both the Transferor and Transferee Companies have concealed income in respect of certain assessment years and the Income Tax Department has raised demands on them. The total tax demanded from the Transferee Company is Rs.2,94,81,414/- and that demanded from the Transferor Company is Rs.1,11,95,826/-. According to the Regional Director it is clear that the Petitioners desire to escape income tax liability arising out of the aforesaid demands by filing revised returns retrospectively from 1st April 2008. Prima facie, I am satisfied that there is some substance in the contentions of the Regional Director. It is clear from the various decisions cited by the Regional Director that revised income tax returns can be filed only if the conditions prescribed by Section 139(5) are satisfied. It would appear that by virtue of the retrospective appointed date, the Petitioners may file revised income tax returns with effect from 1st April 2008 without satisfying the conditions. However, it is possible that the Petitioners may not file revised income tax returns retrospectively with effect from 1st April 2008. Accordingly, in my view it would be better to leave it to the Income Tax Department to decide whether the revised income tax returns, if filed, would be valid or would be violative of Section 139(5) of the Income Tax Act.

It is averred in the information that OP-1 has given ratings to the maximum number of companies for their bank loans in India. OP-1 has been described in the information as the pioneer in credit ratings in India since 1987. It is averred that till S&P took over OP-1, it had a fair name. OP-1 was earlier promoted by premier financial institutions like SBI, ICICI, UTI and ADB etc. However, it is stated that presently the majority shareholding in OP-1 belongs to S&P, an international credit rating agency which enjoys number one position/largest credit rating agency globally. It has been stated that S&P is a dominant credit rating agency not only in US but also internationally with more than 12 lakh ratings of debt of \$52 trillion or nearly Rs. 50 lakh crores which is 28 times the Indian GDP.

It was alleged that OP-1 is abusing its dominant position in the relevant market through a wide array of practices, which have been detailed in extenso in the information viz. predatory pricing, exclusivity obligations, long-term contracts, tying/ bundling of services, unfair contract terms, loyalty discounts, etc. which fall foul of the provisions of section 4 of the Act.

Decision: Case closed.

Reason:

The Informant- a new entrant in CRA market- appears to be aggrieved of the impugned anti-competitive/ unfair and abusive conduct/ practices indulged in by the Opposite Parties. The Informant alleges that the said acts have resulted into inter alia both exploitative as well as exclusionary behaviour to drive the small competitors like the Informant herein out of the market.

On a careful consideration of the allegations levelled by the Informant relating to unfair/ predatory pricing, exclusionary conduct in public procurement, exploitative behaviour in stopping switching by the customers, the Commission is of the opinion that the same appear to be of general and generic nature without having been supported by any data or costs involved to establish predatory pricing etc., and as such do not seem to raise competition issues and contravention of the provisions of section 4 of the Act.

Even in the additional information filed by the Informant, no specific or concrete data have been given. In fact, the Informant has only surmised in the additional information that due to the threats held out by OP-1 no small company is willing to share the information. Furthermore, the grievance pertaining to contravention by OP-1 of RBI notification/ circular relating to pricing, requires the issue to be agitated before the appropriate forum. From the data furnished by the Informant itself, it may be seen that in respect of KSFC's tender for the years 2011, 2012 and 2014, OP-1 was not even the lowest bidder in any of those tenders. On the contrary, the Informant appears to be the lowest bidder for the tender dated 16.08.2011. Similarly, with respect to the tender floated by West Bengal Electricity Distribution Co. Ltd., it may be noticed that though the amount quoted by OP-1 appears to be low yet it may be seen that the Informant had also been quoting less than half the amount than the rest of the bidders



Competition laws

IW: 32:04:2015

Brickwork Ratings India Pvt Ltd v. CRISIL Limited [CCJ]

Case No. 95 of 2014

Ashok Chawla, S. L. Bunker, Sudhir Mital, Augustine Peter and U. C. Nahta [Decided on 18/03/2015]

Competition Act, 2002 – allegation of abuse of dominance against CRISIL – case closed.

brief facts:





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in respect of KSFC's tender dated 16.08.2011. This indicates that there are instances where bidders quote very less amount to win the bids and price competition appears to be the norm for tenders. There is nothing available on record which is suggestive of any predation resorted to by OP-1. The Informant itself has based its case on "too low" pricing by OP-1 instead of establishing predation.

On the issue of denial of market access, the Informant has also not disclosed any evidence to substantiate the same. It is admitted by the Informant itself that it is unable to provide specific evidence.

With regard to the allegation of exclusionary behaviour of OP-1, it is alleged that OP-1 is providing advisory services apart from credit rating services and thereby influencing the PSUs to change eligibility norms to oust the Informant from the market. On a closer scrutiny, it appears that the Informant is more concerned about "moral value" than on any alleged anti-competitive issue. As regard the allegation of elimination of the Informant from government tenders by OP-1, no evidence has been submitted to elaborate the same.

In view of the above, the Commission is of the view that no material has been placed before the Commission wherefrom even a prima facie contravention can be established against the Opposite Parties. Resultantly, no case, whatsoever, is made out against the Opposite Parties for contravention of the provisions of section 4 of the Act and the information is ordered to be closed forthwith in terms of the provisions contained in section 26 (2) of the Act.

IW: 33:04:2015

AMITABH v. M/S KENT RO SYSTEMS [CCI]

Case No. 100 of 2014

Ashok Chawla, S. L. Bunker, Sudhir Mital, Augustine Peter and U. C. Nahta

[Decided on 26/02/2015]

Competition Act, 2002 – allegation of overpricing – case closed.

brief facts:

The Informant, who has described himself as a law abiding citizen and an advocate by profession besides being the customer of the Opposite Party, has filed the present information alleging, inter alia, various alleged anti-competitive practices indulged in by the Opposite Party in the after-market of sale of spare parts and services/ maintenance of KENT RO water purifier systems. The Informant is also aggrieved of "unusually high" price charged by the Opposite Party for its spare parts and after sale services/ maintenance.

The basic thrust of the allegations of the Informant essentially centre to limiting the access by the Opposite Party of its genuine spare parts to only authorized dealers and thereby ousting the independent repairers and other multi-brand service providers; charging of "exorbitant"/ "unusually high" prices for the spare parts and after sale services/ maintenance by the Opposite Party.

In support of the allegations, the Informant has relied upon a decision of the Commission in the case of Shri Samsheer Kataria v. Honda Sael Cars & Ors., Case No. 03 of 2011 ("automobile case") where similar practices by the automobile manufacturers were found to be abusive by the Commission.

Decision: Case closed.

Reason:

At the outset, it may be mentioned that the reliance placed by the Informant upon the said decision is not apposite. It may be noted that in the said decision the Commission had an occasion to examine almost the entire auto manufacturing sector wherein the impugned practices were found to be commonly/ uniformly present. In the present case, the Informant has only alleged certain practices against only one of the players in the RO water purifying systems. It is not the case of the Informant that the same is the scenario across the sector in the present case.

Furthermore, there is one more distinguishing feature which makes the comparison by the Informant of the present case with the automobile case inappropriate. In the said case, the Commission found that customers were not in a position to undertake a whole life cost analysis of complex durable equipment like an automobile. In the present case, that does not appear to be the case. From the information available on the websites/ public domain, it is manifestly clear that the prices for Annual Maintenance Contract (AMC) services in respect of the RO System of the Opposite Party can be easily ascertained and as such, the assertion of the Informant that the customers cannot undertake the whole life cost analysis while buying the RO water purifiers of the Opposite Party does not seem to be well founded. It may also be observed that usually the purchasers are informed about these AMC charges at the time of purchase to enable them to select an annual maintenance plan. This, at any rate, is indicative of the whole life costing of the product.

In the automobile case, it was also noted by the Commission that the combined effect of the restrictive clauses, the near-monopoly supplier status in the aftermarket products/services, lack of inter-changeability of spare parts inter-brand, lack of ability of the consumers to switch to other automobiles without incurring substantial switching costs, information asymmetry to enable the car users to undertake whole life costing analysis, coupled with lack of adequate legislations to regulate the activity of car manufacturers in the aftermarket, have allowed the Original Equipment Manufacturers (OEMs) to insulate themselves from all possible competition in the aftermarket. Consequently, the Commission was of the opinion, that





the case was an example of an industry where the market is not self-correcting and intervention was found to be necessary and justified.

In the present case, the Informant, except alluding to the ratio of the said decision, has not been able to demonstrate how the said considerations are also applicable in the present case. The Informant has singularly failed to adduce a single document or any pricing data to support the assertion that the prices charged by the Opposite Party are "exorbitant" and "unusually high".

Unlike automobile case, it does not appear to be the case in respect of water purifiers that the customers cannot switch to alternative substitutable products without incurring substantial switching costs. The RO water purifiers systems appear to be in the pricing band of Rs. 10,000/- to Rs. 15,000/-. There are number of web based market places available for the customers to dispose of old/ used products and thereby making the potential buyers for such used products instantly available and facilitating switching by the existing customers much easier.

Lastly, it may also be observed that the allegations of the Informant to the effect that the spare parts of the RO systems of the Opposite Party are not available in the market, do not appear to be well founded. From the information available in the public domain, it appears that the spare parts may be purchased online by the customers.

In view of the above, the Commission is of view that no case is made out against Opposite Party for contravention of the provisions of section 4 of the Act and the information is ordered to be closed forthwith in terms of the provisions contained in section 26 (2) of the Act .



General laws

IW: 34:04:2015

HARMONY INNOVATION SHIPPING LTD v. GUPTA COAL INDIA LTD & ANR [SC]

Civil Appeal No. 610 of 2015 [Arising out of SLP(C) NO. 36643 OF 2014]

Dipak Misra & Prafulla C. Pant, JJ. [Decided on

10/03/2015]

Arbitration and Conciliation Act, 1996 – Section 9 – interim relief – international arbitration – Indian court granting interim relief – whether permissible – Held, No.

brief facts:

The issue that has emanated for consideration in this appeal is whether in the obtaining factual matrix, especially regard being had to the nature of the arbitration clause, the High Court is justified in setting aside the order passed by the learned Additional District Judge, Ernakulam directing the first respondent therein to furnish security for US\$ 11,15,400 or its equivalent (approximate) Indian Rupees 6,60,00,000/- or to show cause on or before 01.10.2014, and as an interim measure conditionally attaching the cargo belonging to the first respondent herein.

An agreement was entered into between the parties on 20.10.2010 in respect of 24 voyages of coal shipment belonging to the appellant, from Indonesia to India. The respondent no. 1 herein, Gupta Coal India Ltd., undertook only 15 voyages and that resulted in disputes which ultimately stood referred to arbitration. As the facts would undrape arbitration proceedings were initiated and eventually an award was passed.

After the award came into existence, the present appellant filed an application under Section 9 before the District Court, Ernakulam for its enforcement under Sections 9/47 and 49 of the Act seeking attachment of the cargos as an interim relief and the learned Additional District Judge, as has been stated earlier, issued conditional order of attachment.

The order passed by the learned Additional District Judge, was set aside by the High Court on appeal. Hence the present appeal before the Supreme Court.

Decision: Appeal dismissed.

Reason:

In view of the aforesaid propositions laid down by this Court, we are required to scan the tenor of the clauses in the agreement specifically, the arbitration clause in appropriate perspective. The said clause read as follows:

"5. If any dispute or difference should arise under this charter, general average/arbitration in London to apply, one to be appointed by each of the parties hereto, the third by the two so chosen, and their decision or that of any two of them, shall be final and binding, and this agreement may, for enforcing the same, be made a rule of Court. Said three parties to be commercial men who are the members of the London Arbitrators Association. This contract is to be governed and construed according to English Law. For disputes where total amount claim by either party does not exceed USD 50,000 the arbitration



should be conducted in accordance with small claims procedure of the London Maritime Arbitration Association."

Two aspects emerge for consideration: (i) Whether on the basis of construction placed on the said clause in the agreement it can be stated that the ratio laid down in *Bhatia International v. Bulk Trading S.A* (2002) 4 SCC 105 would not be attracted, but what has been laid down in *Reliance Industries Limited and Another v. Union of India* (2014) 7 SCC 603 would be applicable and (ii) whether the execution of the addendum would attract the principles laid down in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.* (2012) 9 SCC 552 and oust the jurisdiction of the Indian courts.

Coming to the stipulations in the present arbitration clause, it is clear as day that if any dispute or difference would arise under the charter, arbitration in London to apply; that the arbitrators are to be commercial men who are members of London Arbitration Association; the contract is to be construed and governed by English Law; and that the arbitration should be conducted, if the claim is for a lesser sum, in accordance with small claims procedure of the London Maritime Arbitration Association. There is no other provision in the agreement that any other law would govern the arbitration clause.

In the present case, the agreement stipulates that the contract is to be governed and construed according to the English law. This occurs in the arbitration clause. As we perceive, it forms as a part of the arbitration clause. There is ample indication through various phrases like "arbitration in London to apply", arbitrators are to be members of the "London Arbitration Association" and the contract "to be governed and construed according to English Law". It is worth noting that there is no other stipulation relating to the applicability of any law to the agreement. There is no other clause anywhere in the contract. That apart, it is also postulated that if the dispute is for an amount less than US \$ 50000 then, the arbitration should be conducted in accordance with small claims procedure of the London Maritime Arbitration Association. When the aforesaid stipulations are read and appreciated in the contextual perspective, "the presumed intention" of the parties is clear as crystal that the juridical seat of arbitration would be London.

Thus, interpreting the clause in question on the bedrock of the aforesaid principles it is vivid that the intended effect is to have the seat of arbitration at London. The commercial background, the context of the contract and the circumstances of the parties and in the background in which the contract was entered into, irresistibly lead in that direction. We are not impressed by the submission that by such interpretation it will put the respondent in an advantageous position. Therefore, we think it would be appropriate to interpret the clause that it is a proper clause or substantial clause and not a curial or a procedural one by which the arbitration proceedings are to be conducted and hence, we are disposed to think that the seat of arbitration will be at London.

Having said that the implied exclusion principle stated in *Bhatia International* (supra) would be applicable, regard being had to the clause in the agreement, there is no need to dwell upon the

contention raised pertaining to the addendum, for any interpretation placed on the said document would not make any difference to the ultimate conclusion that we have already arrived at.

Before parting with the case, it is obligatory on our part to state that the Division Bench of the High Court has allowed the petition on the foundation that the *Bharat Aluminium Co.* case would govern the field and, therefore, the court below had no jurisdiction is not correct. But as has been analysed and discussed by us, even applying the principles laid down in *Bhatia International* (supra) and scanning the anatomy of the arbitration clause, we have arrived at the conclusion that the courts in India will not have jurisdiction as there is implied exclusion.

Consequently, for different reasons, we concur with the conclusion arrived at by the High Court and accordingly, the appeal, being sans merit, stands dismissed.

IW: 35:04:2015

HMT WATCHES LTD v. M.A. ABIDA & ANR [SC]

Criminal Appeal No. 471 of 2015 (Arising out of SLP (Crl) No. 5295 of 2014) with Criminal Appeal No. 472 of 2015 (Arising out of SLP(Crl) No. 5800 of 2014)

Dipak Misra & Prafulla C. Pant, JJ. [Decided on 19/03/2015]

Negotiable Instruments Act, 1881 – dishonour of cheque – accused contested that the cheques were of security nature – trial court dismissed the complaint – whether correct – Held, No.

brief facts:

Succinctly stated, the appellant filed criminal complaint cases against respondent - M.A. Abida stating that as many as 57 cheques dated 28.09.2006 were issued by her in discharge of outstanding liability towards the complainant/appellant (HMT Watches Ltd.). When the cheques were presented for collection the same were received back, dishonoured by bankers with the endorsement - "payment stopped by the drawer". Notice of demand dated 9.10.2006 was issued by the complainant to the respondent no.1 but she failed to make the payment of the amount mentioned in the cheques, i.e., total Rs.1,79,86,357/-. Instead, she sent reply to the notice disputing liability to pay. On this, complainant filed twenty criminal complaints mentioned above, against the respondent no.1 with regard to the offence punishable under Section 138 of the N.I. Act.

The accused - M.A. Abida filed Criminal M.C. No. 2366 of 2008 and Criminal M.C. No. 2367 of 2008 challenging the proceedings initiated by the complainant on the ground that she was Re-Distribution





Stockist (RDS) of watches manufactured by the appellant. The business with the appellant was done till September, 2003 on "cash and carry" basis. The accused further pleaded in the petitions filed before the High Court under Section 482 of the Code of Criminal Procedure, that after 2003 the appellant company used to collect cheques towards the amount covered by distinct invoices with respect to various consignments for securing payment of amount covered by the invoices.

The High Court accepted the plea of the accused (respondent no.1) and quashed the criminal complaint cases. Hence, these appeals through special leave.

Decision: Appeals allowed.

Reason:

Having heard learned counsel for the parties, we are of the view that the accused (respondent no.1) challenged the proceedings of criminal complaint cases before the High Court, taking factual defences. Whether the cheques were given as security or not, or whether there was outstanding liability or not is a question of fact which could have been determined only by the trial court after recording evidence of the parties. In our opinion, the High Court should not have expressed its view on the disputed questions of fact in a petition under Section 482 of the Code of Criminal Procedure, to come to a conclusion that the offence is not made out. The High Court has erred in law in going into the factual aspects of the matter which were not admitted between the parties. The High Court further erred in observing that Section 138(b) of N.I. Act stood uncomplained, even though the respondent no.1 (accused) had admitted that he replied the notice issued by the complainant. Also the fact as to whether the signatory of demand notice was authorized by the complainant company or not, could not have been examined by the High Court in its jurisdiction under Section 482 of the Code of Criminal Procedure when such plea was controverted by the complainant before it.

Lastly, it is contended on behalf of the respondent no.1 that it was not a case of insufficiency of fund, as such, ingredients of offence punishable under Section 138 of the N.I. Act are not made out. We are not inclined to accept the contention of learned counsel for respondent no.1. In this connection, it is sufficient to mention that in the case of *Pulsive Technologies P. Ltd. vs. State of Gujarat* (2014) 9 SCALE 437, this Court has already held that instruction of "stop payment" issued to the banker could be sufficient to make the accused liable for an offence punishable under Section 138 of the N.I. Act. Earlier also in *Modi Cements Ltd. vs. Kuchil Kumar Nandi* (1998) 3 SCC 249, this Court has clarified that if a cheque is dishonoured because of stop payment instruction even then offence punishable under Section 138 of N.I. Act gets attracted.

For the reasons as discussed above, we find that the High Court has committed grave error of law in quashing the criminal complaints filed by the appellant in respect of offence punishable under Section 138 of the N.I. Act, in exercise of powers under Section 482 of the

Code of Criminal Procedure by accepting factual defences of the accused which were disputed ones. Such defences, if taken before trial court, after recording of the evidence, can be better appreciated.

Therefore, for the reasons, as discussed above, these appeals deserve to be allowed. Accordingly, the appeals are allowed.

IW: 36:04:2015

**DELHI INTERNATIONAL AIRPORT LTD
v. INTERNATIONAL LEASE FINANCE
CORPORATION & ORS [SC]**

Civil Appeal No. 2932 of 2015 (Arising out of SLP (Civil) No.27062/2013)

V. Gopala Gowda & R. Banumathi, JJ. [Decided on 17/03/2015]

Airport operator detained the aircrafts of the defaulting airliner – High court directed the operators to release the aircrafts based on the decision arrived at with the government in a meeting by the various stake holders – whether the release of aircrafts tenable – Held, No.

brief facts:

The appellant is Delhi International Airport Limited (DIAL), has been granted aerodrome licence by Director General Civil Aviation (DGCA) on 1.5.2008 and is a competent authority with respect to Delhi Airport responsible for upgradation, maintenance and operation of Delhi Airport. Appellant has been conferred power under Section 22(i)(a) of the Airport Authority of India Act, 1994 (short for 'AAI Act') to charge fees, rent etc. for the landing, housing or parking of aircraft. Respondent No.1 is a leasing company incorporated under laws of California, U.S.A, engaged in the business of leasing of aircrafts engines and related equipment.

Aircrafts of Kingfisher Airlines (KAL), which were leased by the respondent No.1, were detained by the appellant for the failure to pay the parking, landing and housing charges and subsequently got de-registered on 27.12.2012. Section 22 of the AAI Act provides for levy of landing, housing and parking charges at the Airport. These charges (amounting to a total of Rs.10,50,51,052.77 for all eight detained aircraft) and other statutory charges and dues (amounting to Rs.12,64,08,706.57 for all eight detained aircraft) attach to the aircraft and have to be discharged by the person in control of the aircraft is under Regulation 10. Other aircrafts of KAL lying at various airports also got detained at different airports due to non-payment of charges and subsequently deregistered.

Assailing the order of detention respondent No.1 filed writ petition





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before the Delhi High Court. During pendency of the writ petition, on 26.3.2013 a meeting was held regarding release of the aircrafts of by the airport operators. High Court of Delhi vide impugned order dated 8.5.2013 directed all the airports to release the aircrafts in terms of the above decision taken in the meeting held on 26.3.2013 on payment of parking charges up to 13.5.2013. Being aggrieved, the appellant-DIAL has preferred this appeal by way of special leave. The issue falling for consideration is whether minutes of meeting can override statutory regulations.

Decision: Appeal allowed.

Reason:

The High Court has mainly relied upon minutes of the meeting dated 26.3.2013. It has neither gone into the question whether the minutes of the meeting, where decision was taken by the Central Government in accordance with the provision of Section 40 of the AAI Act nor it had examined the vires of Regulation 10. The High Court had only referred to the minutes of the meeting and disposed of the writ petition, recording the statement of the learned counsel for the petitioner that the directions as per the minutes of the meeting are complied with. It has to be seen whether the minutes of the meeting dated 26.3.2013 would amount to a general order or special order passed by the Central Government and whether it would override the powers of the Airport Authority of India under Regulation 10.

Article 77 of the Constitution of India deals with the conduct of business of Government of India, while Article 166 of the Constitution of India deals with the conduct of business of the State Government. All executive actions of the Government of India and the Government of a State are required to be taken in the name of the President or the Governor of the concerned State as the case may be.

Unless the minutes of meeting resulted in a final decision taken by the competent authority in terms of Article 77(3) of the Constitution and the decision so taken is communicated to the concerned person, the same was not capable of being enforced by issuing a direction in a writ petition. Without going into the merits of the matter, High Court was not right in disposing of the matter in terms of the minutes of the meeting dated 26.3.2013 and the impugned order is liable to be set aside.



Industrial & labour laws

IW: 37:04:2015

54

MACKINON MACKENZIE LTD v. MACKINNON EMPLOYEES UNION [SC]

Civil Appeal No. 5319 of 2008

V. Gopala Gowda & C. Nagappan, JJ. [Decided on 25/02/2015]

Industrial Disputes Act, 1945 – retrenchment – employer retrenched workmen without complying the statutory provisions – whether unfair labour practice – Held, Yes.

brief facts:

The appellant-Company was engaged in shipping business activities. It had approximately 150 employees who were all workmen and members of the respondent-Union. A letter dated 27.07.1992, purportedly a notice of retrenchment together with the statement of reasons enclosed therewith was served upon approximately 98 workmen by the appellant-Company stating that the same will be effective from closing of business on 04.08.1992.

Aggrieved by the said action of the appellant-Company, the concerned workmen of the respondent-Union filed a complaint before the Industrial Court at Mumbai alleging the unfair labour practices on the part of the appellant-Company in not complying with certain statutory provisions under item No. 9 of the Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as the "MRTU & PULP Act"), in proposing to retrench the concerned workmen. It has assailed the legality and validity of the notice of retrenchment served upon the concerned workmen by the appellant-Company.

On appreciation of facts, points of dispute, evidence on record, issues raised and decisions relied upon by both the parties, the Industrial Court held that the appellant-Company has committed an unfair labour practice by committing breach of Rule 81 of the Industrial Disputes (Bombay) Rules, 1957, (for short 'the Bombay Rules') by not displaying the seniority list of the workmen of the concerned department/unit of the appellant-Company on the notice board prior to the date of issuance of retrenchment notice to the concerned 98 workmen as contemplated by the MRTU & PULP Act, 1971 and the Bombay Rules. It was further held that the appellant-Company had committed an unfair labour practice by committing breach of Section 25G of the I.D. Act read with Rule 81 of the Bombay Rules by not following the principle of 'last come first go'.

Therefore, the Industrial Court held that breach of statutory rules and provisions of the I.D. Act and the Bombay Rules amounted to unfair labour practices as contemplated by item No.9 of the Schedule IV of the MRTU & PULP Act. The breach of the mandatory provisions of Section 25G of the I.D. Act read with Rule 81 of the Bombay Rules was held to have been committed by the appellant-Company. Thus, the Industrial Court answered the points of dispute and relevant





contentious issues framed by it in favour of the concerned workmen and set aside the notice of retrenchment served upon them.

The correctness of the said award passed by the Industrial Court was challenged by the appellant-Company before the High Court which dismissed the same and passed the judgment and order by recording its reasons and affirmed the findings of fact recorded by the Industrial Court on the points of dispute and the contentious issues.

Aggrieved by the same, the appellant- Company challenged the above judgement before the Division Bench of the Bombay High Court, which also upheld the judgement. The correctness of the same is challenged in this appeal by the appellant- Company urging various grounds and prayed for setting aside the impugned judgment and order and to quash the award of the Industrial Court.

Decision: Appeal dismissed.

Reason:

The aforesaid rival legal contentions are carefully examined by us with reference to the pleadings, evidence adduced by both the parties on record before the Industrial Court, the relevant statutory provisions of the I.D. Act inter alia, Section 2(cc) read with Sections 25F (a) & (c), 25FFA, and 25G of the I.D. Act read with Rule 81 of the Bombay Rules to find out as to whether the findings recorded by the Industrial Court on the relevant issue nos. 1 to 3 and 7 in the award in favour of the concerned workmen are either erroneous or bad in law and warrant interference by this Court.

The Industrial Court, being the original court, for appreciation of facts & evidence on record has rightly applied its mind to the pleadings and evidence on record and recorded its finding of fact on the contentious issues referred to supra by assigning valid & cogent reasons after adverting to the statutory provisions of the I.D. Act and the law laid down by this Court and the High Court of Bombay.

It is evident from the Statement of Reasons that the appellant-Company has not been able to improve its revenue and was having cumulative losses. There is a reference with regard to the activities of the appellant-Company including that of Clearing and Forwarding Department. The appellant-Company was unable to improve its business and further found itself in great difficulty in paying salaries to the staff on time. By a careful reading of the aforesaid Statement of Reasons, it has not been explicitly made clear that the Board of Directors of the Company have taken a decision to close down Clearing and Forwarding Section, which is a part of the undertaking of the appellant-Company. As rightly contended by the learned senior counsel appearing on behalf of the respondent-Union, the cumulative effect of the pleadings, Statement of Reasons appended to the retrenchment notice, it is made very clear that the retrenchment notice served upon the concerned workmen was an action of closure of Clearing and Forwarding Section of the appellant-Company. According to the learned senior counsel on behalf of the respondent-Union, the concurrent finding of fact recorded by the

Industrial Court on the above relevant contentious issues is further fortified by the retrenchment notice and the Statement of Reasons annexed to the same.

On the contention urged on behalf of the appellant-Company is that it was a closure of the department/unit of the appellant-Company as per the definition of "closure" under Section 2(cc) of the I.D. Act, we are of the view that with respect to the above contentious issues framed by the Industrial Court has been answered against the appellant-Company based on the finding of fact recorded by it. Therefore, the said contention urged on behalf of the appellant-Company cannot be allowed to sustain in law. Further, with regard to the allegation against the appellant-Company that its action of retrenchment of the concerned workmen is in contravention with the provisions of Section 25F clauses (a), (b) and (c) of the I.D. Act. Section 25F clause (a) states that no workmen employed in continuous service for not less than one year under an employer shall be retrenched until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice. In the case on hand, the workman were served with the retrenchment notice on 27.07.1992 stating that their services stand retrenched from the close of business hours on 04.08.1992 in terms of the reasons appended to the said notice and further stated the amount of retrenchment compensation and one month's salary in lieu of notices that would be due to the concerned workmen. However, no cogent evidence has been brought before us by the appellant-Company to prove that the above referred one month's salary of the concerned workmen in lieu of the retrenchment notice has been actually paid to them. Further, the concerned workmen were given notice of retrenchment with Statement of Reasons appended therewith by the appellant- Company only on 27.07.1992 which was effective from 4.08.1992. Therefore, one month notice was not given to the concerned workmen before their retrenchment came into effect nor one month's salary in lieu of the retrenchment notice was paid to the concerned workmen. Therefore, the said action by the appellant-Company is a clear cut breach of the above said provision of condition precedent for retrenchment of the workmen as provided under Section 25F clause (a) of the I.D. Act. The Industrial Court after examining the facts and evidence on record has rightly answered the question of breach of Section 25F clause (b) in the negative since no evidence has been produced by the respondent-Union to prove the same and further no calculation is brought to our notice as to the amount received by way of retrenchment compensation and also the actual amount sought to have been paid to the retrenched workmen. Further, with regard to the provision of Section 25F clause (c), the appellant-Company has not been able to produce cogent evidence that notice in the prescribed manner has been served by it to the State Government prior to the retrenchment of the concerned workmen. Therefore, we have to hold that the appellant-Company has not complied with the conditions precedent to retrenchment as per Section 25F clauses (a) and (c) of the I.D. Act which are mandatory in law.





Legal World

The statutory provisions contained in Section 25FFA of the I.D. Act mandate that the Company should have issued the intended closure notice to the Appropriate Government should be served notice at least 60 days before the date on which it intended to close down the concerned department/unit of the Company. As could be seen from the pleadings and the findings recorded by the Industrial Court, there is a categorical finding of fact recorded that there is no such mandatory notice served on the State Government by the appellant-Company. The object of serving of such notice on the State Government is to see that the it can find out whether or not it is feasible for the Company to close down a department/unit of the Company and whether the concerned workmen ought to be retrenched from their service, made unemployed and to mitigate the hardship of the workmen and their family members. Further, the said provision of the I.D. Act is the statutory protection given to the concerned workmen which prevents the appellant-Company, from retrenching the workmen arbitrarily and unreasonably & in an unfair manner.

The principle of 'last come first go' should have been strictly adhered to by the appellant-Company at the time of issuing retrenchment notice served upon the concerned workmen as provided under Section 25G of the I.D. Act read with Rule 81 of the Bombay Rules which is not properly complied with by it for the reason that the custom clearance and dock clearance are totally different departments and it has retained 7 workmen who are undisputedly juniors to the concerned workmen, which action is sought to be justified by the appellant-Company without giving justifiable reasons. Further, no category wise seniority list of the workmen was displayed on notice board of the appellant-Company as required in law.

For the foregoing reasons, the appeal is dismissed. We affirm the impugned judgment and order of the Division Bench of the High Court. The order dated 14.08.2006 extending protection to the appellant-Company shall stand vacated. Since, the concerned workmen have been litigating the matter for the last 23 years, it would be appropriate for us to give direction to the appellant-Company to comply with the terms and conditions of the award passed by the Industrial Court by computing back-wages on the basis of revision of pay scales of the concerned workmen and other consequential monetary benefits including terminal benefits and pay the same to the workmen within six weeks from the date of receipt of the copy of this Judgment, failing which, the back-wages shall be paid with an interest at the rate of 9% per annum. The appellant-Company shall submit the compliance report for perusal of this Court. There shall be no order as to costs.

IW: 38:04:2015

D.K. SOOD & ANR v. PUNJAB NATIONAL BANK [DEL]

W.P.(C) No.4911/2014 with batch of petitions.

Valmiki J. Mehta, J. [Decided on 18/03/2015]

Change in policy decision by the bank – whether court can review the same and issue direction – Held, No.

brief facts:

Petitioners, who are employees working in the clerical cadre/ Junior Management Grade (JMG) Scale-I of the employer/Punjab National Bank, question the action of the employer/Bank in firstly notifying a policy dated 22.7.2014 that on promotion to JMG Scale-I, people above 57 years will not be transferred, but that policy was subsequently changed and replaced by a new policy dated 02.8.2014 which did away with this clause i.e. the effect was that employees above the age of 57 years on promotion were liable to be transferred.

The grievance of the petitioners is that the employer/Bank has suddenly changed the requirement that the people above 57 years of age will be transferred only because of pressure put by an association of employees of the respondent/Bank. It is also argued that there cannot be sudden changes once an option is exercised by an employee in terms of the earlier policy dated 22.7.2014 i.e. since an employee is above 57 years he hence cannot be transferred since such an employee has already exercised an option in terms of the earlier policy dated 22.7.2014 to not get transferred.

Decision: Petition dismissed.

Reason:

In my opinion, the arguments urged on behalf of the petitioner totally lack substance because this Court cannot substitute itself for the employer for taking an administrative decision as to how the affairs of a Bank have to/can be run, especially as regards a Bank which has branches and administration all over the India. Courts cannot step in with respect to the policy decisions with respect to administration of an organization, and even for the sake of argument, if it is presumed that the respondent/Bank has changed the policy for transfer for employees over 57 years of age on account of the pressure put by an association of employees, yet, in spite of that it cannot be doubted that for maintaining industrial relations, the employer can first make a policy and thereafter even change that policy. The powers of the employer to re-frame a policy guideline or change the policy in toto even cannot be doubted, and there is no law that an employer must function only under a particular policy and it cannot carry out administration by transferring its employees, that too only because certain employees so want.





Corporate laws

01 Companies (Management and Administration) Amendment Rules, 2015

[Issued by the Ministry of Corporate Affairs vide F.No. 01/34/2013-CL-V- Part-1, dated 19.03.2015. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).]

In exercise of the powers conferred by section 108 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Management and Administration) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Management and Administration) Amendment Rules, 2015.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Management and Administration) Rules, 2014, for rule 20, the following rule shall be substituted, namely:-

"20. Voting through electronic means.-(1) The provisions of this rule shall apply in respect of the general meetings for which notices are issued on or after the date of commencement of this rule,

- (2) Every company other than a company referred to in Chapter XB or Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 having its equity shares listed on a recognised stock exchange or a company having not less than one thousand members, shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at general meetings by electronic means.

Explanation.- For the purposes of this rule, the expression-

- (i) "agency" means the National Securities Depository Limited, the Central Depository Services (India) Limited or any other entity approved by the Ministry of Corporate Affairs subject to the condition that the National Securities

Depository Limited, the Central Depository Services (India) Limited or such other entity has obtained a certificate from the Standardisation Testing and quality Certification Directorate, Department of Information Technology, Ministry of Communications and Information Technology, Government of India including with regard to compliance with parameters specified under Explanation (vi);

- (ii) "cut-off date" means a date not earlier than seven days before the date of general meeting for determining the eligibility to vote by electronic means or in the general meeting;
 - (iii) "cyber security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosures, disruption, modification or destruction;
 - (iv) "electronic voting system" means a secured system based process of display of electronic ballots, recording of votes of the members and the number of votes polled in favour or against, in such a manner that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralised server with adequate cyber security;
 - (v) "remote e-voting" means the facility of casting votes by a member using an electronic voting system from a place other than venue of a general meeting;
 - (vi) "secured system" means computer hardware, software, and procedure that -
 - (a) are reasonably secure from unauthorised access and misuse;
 - (b) provide a reasonable level of reliability and correct operation;
 - (c) are reasonably suited to performing the intended functions; and
 - (d) adhere to generally accepted security procedures;
 - (vii) "voting by electronic means" includes "remote e-voting" and voting at the general meeting through an electronic voting system which may be the same as used to remote e-voting.
- (3) A member may exercise his right to vote through voting by electronic means on resolutions referred to in sub-rule (2) and the company shall pass such resolutions in accordance with the provisions of this rule.
 - (4) A company which provides the facility to its members to exercise voting by electronic means shall comply with the following procedure, namely:-



- (i) the notice of the meeting shall be sent to all the members, directors and auditors of the company either -
 - (a) by registered post or speed post; or
 - (b) through electronic means, namely, registered e-mail ID of the recipient; or
 - (c) by courier service;
- (ii) the notice shall also be placed on the website, if any, of the company and of the agency forthwith after it is sent to the members;
- (iii) the notice of the meeting shall clearly state -
 - (A) that the company is providing facility for voting by electronic means and the business may be transacted through such voting;
 - (B) that the facility for voting, either through electronic voting system or ballot or polling paper shall also be made available at the meeting and members attending the meeting who have not already cast their vote by remote e-voting shall be able to exercise their right at the meeting;
 - (C) that the members who have cast their vote by remote e-voting prior to the meeting may also attend the meeting but shall not be entitled to cast their vote again;
- (iv) the notice shall -
 - (A) indicate the process and manner for voting by electronic means;
 - (B) indicate the time schedule including the time period during which the votes may be cast by remote e-voting;
 - (C) provide the details about the login ID;
 - (D) specify the process and manner for generating or receiving the password and for casting of vote in a secure manner.
- (v) the company shall cause a public notice by way of an advertisement to be published, immediately on completion of despatch of notices for the meeting under clause (i) of sub-rule (4) but at least twenty-one days before the date of general meeting, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having country-wide circulation, and specifying in the said advertisement, *inter alia* the following matters namely:-
 - (a) statement that the business may be transacted through voting by electronic means;
 - (b) the date and time of commencement of remote e-voting;
 - (c) the date and time of end of remote e-voting;
 - (d) cut-off date;
 - (e) the manner in which persons who have acquired shares

and become members of the company after the despatch of notice may obtain the login ID and password;

- (f) the statement that -
 - (A) remote e-voting shall not be allowed beyond the said date and time;
 - (B) the manner in which the company shall provide for voting by members present at the meeting; and
 - (C) a member may participate in the general meeting even after exercising his right to vote through remote e-voting but shall not be allowed to vote again in the meeting; and
 - (D) a person whose name is recorded in the register of members or in the register of beneficial owners maintained by the depositories as on the cut-off date only shall be entitled to avail the facility of remote e-voting as well as voting in the general meeting;
- (g) website address of the company, if any, and of the agency where notice of the meeting is displayed; and
- (h) name, designation, address, email id and phone number of the person responsible to address the grievances connected with facility for voting by electronic means;

Provided that the public notice shall be placed on the website of the company, if any, and of the agency;

- (vi) the facility for remote e-voting shall remain open for not less than three days and shall close at 5.00 p.m. on the date preceding the date of the general meeting;
- (vii) during the period when facility for remote e-voting is provided, the members of the company, holding shares either in physical form or in dematerialised form, as on the cut-off date, may opt for remote e-voting:

Provided that once the vote on a resolution is cast by the member, he shall not be allowed to change it subsequently or cast the vote again;

Provided further that a member may participate in the general meeting even after exercising his right to vote through remote e-voting but shall not be allowed to vote again;
- (viii) at the end of the remote e-voting period, the facility shall forthwith be blocked;

Provided that if a company opts to provide the same electronic voting system as used during remote e-voting during the general meeting, the said facility shall be in operation till all the resolutions are considered and voted upon in the meeting and may be used for voting only by the members attending the meeting and who have not exercised their right to vote





through remote e-voting.

- (ix) the Board of Directors shall appoint one or more scrutiniser, who may be Chartered Accountant in practice, Cost Accountant in practice, or Company Secretary in practice or an Advocate, or any other person who is not in employment of the company and is a person of repute who, in the opinion of the Board can scrutinise the voting and remote e-voting process in a fair and transparent manner:

Provided that the scrutiniser so appointed may take assistance of a person who is not in employment of the company and who is well-versed with the electronic voting system;

- (x) the scrutiniser shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority;
- (xi) the Chairman shall, at the general meeting, at the end of discussion on the resolutions on which voting is to be held, allow voting, as provided in clauses (a) to (h) of sub-rule (1) of rule 21, as applicable, with the assistance of scrutiniser, by use of ballot or polling paper or by using an electronic voting system for all those members who are present at the general meeting but have not cast their votes by availing the remote e-voting facility.
- (xii) the scrutiniser shall, immediately after the conclusion of voting at the general meeting, first count the votes cast at the meeting, thereafter unblock the votes cast through remote e-voting in the presence of at least two witnesses not in the employment of the company and make, not later than three days of conclusion of the meeting, a consolidated scrutiniser's report of the total votes cast in favour or against, if any, to the Chairman or a person authorised by him in writing who shall countersign the same:

Provided that the Chairman or a person authorised by him in writing shall declare the result of the voting forthwith;

Explanation.- It is hereby clarified that the manner in which members have cast their votes, that is, affirming or negating the resolution, shall remain secret and not available to the Chairman, Scrutiniser or any other person till the votes are cast in the meeting.

- (xiii) For the purpose of ensuring that members who have cast their votes through remote e-voting do not vote again at the general meeting, the scrutiniser shall have access, after the closure of period for remote e-voting and before the start of general meeting, to details relating to members, such as their names, folios, number of shares held and such other information that the scrutiniser may require, who have cast votes through remote e-voting but not the manner in which they have cast their votes:

- (xiv) the scrutiniser shall maintain a register either manually or electronically to record the assent or dissent received, mentioning the particulars of name, address, folio number or client ID of the members, number of shares held by them, nominal value of such shares and whether the shares have differential voting rights;

- (xv) the register and all other papers relating to voting by electronic means shall remain in the safe custody of the scrutiniser until the Chairman considers, approves and signs the minutes and thereafter, the scrutiniser shall hand over the register and other related papers to the company.

- (xvi) the results declared along with the report of the scrutiniser shall be placed on the website of the company, if any, and on the website of the agency immediately after the result is declared by the Chairman:

Provided that in case of companies whose equity shares are listed on a recognised stock exchange, the company shall, simultaneously, forward the results to the concerned stock exchange or exchanges where its equity shares are listed and such stock exchange or exchanges shall place the results on its or their website.

- (xvii) subject to receipt of requisite number of votes, the resolution shall be deemed to be passed on the date of the relevant general meeting.

Explanation.- For the purposes of this clause, the requisite number of votes shall be the votes required to pass the resolution as the 'ordinary resolution' or the 'special resolution', as the case may be, under section 114 of the Act.

- (xviii) a resolution proposed to be considered through voting by electronic means shall not be withdrawn."

Amardeep S. Bhatia
Joint Secretary

02 Companies (Meetings of Board and its Powers) Amendment Rules, 2015

[Issued by the Ministry of Corporate Affairs vide F.No. 1/32/2013-CL-V-Part, dated 18.03.2015. To be published in the Gazette of India, Extraordinary, Part II Section 3, Sub-section (i).]

In exercise of the powers conferred under sections 173, 175, 177, 178, 179, 184, 185, 186, 187, 188, 189 and section 191 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Meetings of Board and its Powers) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Meetings of Board and its Powers) Amendment Rules, 2015.





(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Meetings of Board and its Powers) Rules, 2014,

(a) in rule 8,

(i) item numbers (3), (5), (6), (7), (8) and (9) and the entries relating thereto shall be omitted;

(b) in rule 10, in the proviso, for the word "principle" the word "principal" shall be substituted.

Amardeep Singh Bhatia
Joint Secretary

03 Companies (Share Capital and Debentures) Amendment Rules, 2015

[Issued by the Ministry of Corporate Affairs vide F.No. 1/4/2013-CLV (Pt.I) dated 18.03.2015. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).]

In exercise of the powers conferred under sub-clause (ii) of clause (a) of section 43, sub-clause (d) of sub-section (1) of section 54, sub-section (2) of section 55, sub-section (1) of section 56, sub-section (3) of section 56, sub-section (1) of section 62, sub-section (2) of section 42, clause (f) of sub-section (2) of section 63, sub-section (1) of section 64, clause (b) of sub-section (3) of section 67, sub-section (2) of section 68, sub-section (6) of section 68, sub-section (9) of section 68, sub-section (10) of section 68, sub-section (3) of section 71, sub-section (6) of section 71, sub-section (13) of section 71 and sub-sections (1) and (2) of section 72, read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Share Capital and Debentures) Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Share Capital and Debenture) Rules, 2014,

(1) for rule 3, the following rule shall be substituted, namely:-

3. Application.- The provisions of these rules shall apply to -

- (a) all unlisted public companies:
- (b) all private companies: and
- (c) listed companies so far as they do not contradict or conflict with any other regulation framed in this regard by the Securities and Exchange Board of India:

(2) in rule 5, in sub-rule (3), in clause (b),

(a) the first proviso shall be omitted;

(b) in the second proviso for the words "provided further that", the words "provided that" shall be substituted:

(c) in the third proviso for the words "provided also that" the words "provided further that" shall be substituted:

(3) in rule 6, in sub-rule (2), in clause (c), for the words "within fifteen days", the words "within forty-five days" shall be substituted:

(4) in rule 12, in sub-rule (1), in the Explanation, in clause (c), the words "or of an associate company" shall be omitted;

(5) in rule 13, in sub-rule (1), -

(a) in the proviso, for the words "provided that" the words "provided further that" shall be substituted and before the proviso as so amended, the following proviso shall be inserted, namely:-

"Provided that in case of any preferential offer made by a company to one or more existing members only, the provisions of sub-rule (1) and proviso to sub-rule (3) of rule 14 of Companies (Prospectus and Allotment of Securities) Rules, 2014 shall not apply."

(6) in rule 18,-

(a) in sub-rule (1) -

(A) in clause (d), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted, namely:-

- "(i) any specific movable property of the company; or
- (ii) any specific immovable property wherever situate, or any interest therein:

Provided that in case of a non-banking financial company, the charge or mortgage under sub-clause (i) may be created on early movable property"

(B) in clause (d), after sub-clause (ii), following proviso shall be inserted, namely:-

"Provided further that in case of any issue of debentures by a Government company which is fully secured by the guarantee given by the Central Government or one or more State Government or by both, the requirement for creation of charge under this sub-rule shall not apply."

Provided also that in case of any loan taken by a subsidiary company from any bank or financial institution the charge or mortgage under this sub-rule may also be created on the properties or assets of the holding company;

(b) in sub-rule (5), for the words "within sixty days of allotment of debentures", the words "within three months of closure of the issue or offer" shall be substituted;

(c) after sub-rule (8), following sub-rules shall be inserted, namely:-





"(9) Nothing contained in this rule shall apply to any amount received by a company against issue of commercial paper or any other similar instrument issued in accordance with the guidelines or regulations or notification issued by the Reserve Bank of India.

(10) In case of any offer of foreign currency convertible bonds or foreign currency bonds issued in accordance with the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 or regulations or directions issued by the Reserve Bank of India, the provisions of this rule shall not apply unless otherwise provided in such Scheme or regulations or directions."

(7) in rule 19, in sub-rule (11), for the word, letters and figures "Form No. SH - 14", the word, letters and figures "Form SH - 13", shall be substituted.

(8) in the Annexure, for "Form SH - 13" and "Form SH - 14", the following Forms shall respectively, be substituted, namely:-

Form No. SH-13
Nomination Form

[Pursuant to section 72 of the Companies Act, 2013 and rule 19(1) of the Companies (Share Capital and Debentures) Rules 2014]

To
Name of the company:
Address of the company:

I/We the holder(s) of the securities particulars of which are given hereunder wish to make nomination and do hereby nominate the following persons in whom shall vest, all the rights in respect of such securities in the event of my/our death.

(1) PARTICULARS OF THE SECURITIES (in respect of which nomination is being made)

Nature of securities	Folio No	No. of securities	Certificate No	Distinctive No.

(2) PARTICULARS OF NOMINEE/S —

(a) Name:
(b) Date of Birth:
(c) Father's/Mother's/Spouse's name:
(d) Occupation:
(e) Nationality:
(f) Address:
(g) E-mail id:
(h) Relationship with the security holder:

(3) IN CASE NOMINEE IS A MINOR—

(i) Date of birth:
(ii) Date of attaining majority
(iii) Name of guardian:
(iv) Address of guardian:

(5) PARTICULARS OF NOMINEE IN CASE MINOR NOMINEE DIES BEFORE ATTAINING AGE OF MAJORITY

(i) Name:
(ii) Date of Birth:
(iii) Father's/Mother's/Spouse's name:
(iv) Occupation:
(v) Nationality:
(vi) Address:
(vii) E-mail id:
(viii) Relationship with the security holder:(i) Relationship with the minor nominee

Name:
Address:-

Name of the Security Holder(s) Signature Witness with name and address

Form No. SH-14
Cancellation or Variation of Nomination

[Pursuant to sub-section (3) of section 72 of the Companies Act, 2013 and rule 19(9) of the Companies (Share Capital and Debentures) Rules 2014]

Name of the company:

I/We hereby cancel the nomination(s) made by me/us in favor of (name and address of the nominee) in respect of the below mentioned securities.
Or
I/We hereby nominate the following person in place of as nominee in respect of the below mentioned securities in whom shall vest all rights in respect of such securities in the event of my/our death.

(1) PARTICULARS OF THE SECURITIES (in respect of which nomination is being cancelled / varied)

Nature of securities	Folio No	No. of securities	Certificate No	Distinctive No.

(2) (a) PARTICULARS OF THE NEW NOMINEE:

i. Name:
ii. Date of Birth:
iii. Father's/Mother's/Spouse's name:
iv. Nationality:
v. Address:
vi. E-mail id:
vii. Relationship with the Security holder:

(b) IN CASE NEW NOMINEE IS A MINOR—

i. Date of Birth:
ii. Date of attaining majority
iii. Name of guardian:





iv. Address of guardian:

(3) PARTICULARS OF NOMINEE IN CASE MINOR NOMINEE DIES BEFORE ATTAINING AGE OF MAJORITY

(a) Name:

(b) Date of Birth:

(c) Father's/Mother's/Spouse's name:

(d) Occupation:

(e) Nationality:

(f) Address:

(g) E-mail id:

(h) Relationship with the security holder:(i) Relationship with the minor nominee:

Signature

Name of the Security Holder (s)

Witness with name and address

Amardeep S. Bhatia
Joint Secretary

04 Companies (Removal of Difficulties) Order, 2015

[Issued by the Ministry of Corporate Affairs vide [F. No. 1/13/2013-CL.V-Part, dated 13.02.2015. Published in the Gazette of India, Extraordinary Part II, Section-3, Sub-section (ii), dated 13.02.2015.]

Whereas, the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013;

And whereas, clause (85) of section 2 of the said Act provides for definition of the term "small company";

And whereas, clause (b) of sub-section (11) of section 186 of the said Act provides that the requirements of provisions of section 186 [except sub-section (1) of the said section] shall not apply to any acquisition made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934) and any other company whose principal business is acquisition of securities;

And whereas, such provisions of clause (85) of section 2 and section 186 of the said Act had come into force on the 1st day of April, 2014;

And whereas, the following difficulties have arisen in giving effect to the above provisions of the said Act:—

- (a) According to clause (85) of section 2, a company may be treated as a 'small company' if it meets either of the conditions provided therein thereby making the second limit unrestricted or inconsequential. Difficulties have arisen in this regard as companies which, though, meet one of the criteria but exceed the monetary limit in respect of second criteria excessively are also getting classified as 'small companies'; and
- (b) in clause (b) of sub-section (11) of section 186, in the absence of provisions for exemption to a banking company or an insurance company or a housing finance company making acquisition of securities in its ordinary course of business, a difficulty has arisen that such companies cannot make any acquisition of securities in their ordinary course of business;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:-

- (1) Short title and commencement.—(1) This Order may be called the Companies (Removal of Difficulties) Order, 2015.
 - (2) It shall come into force on the date of its publication in the Official Gazette.
2. In the Companies Act, 2013 (hereinafter referred to as the said Act),—
- (a) in section 2, in clause (85), in sub-clause (i), for the word "or" occurring at the end, the word "and" shall be substituted; and
 - (b) in section 186 of the said Act, in sub-section (11), in clause (b), after item (iii), the following item shall be inserted, namely :—
- "(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business."

Amardeep Singh Bhatia
Jt. Secy

05 Clarification with regard to section 185 and 186 of the Companies Act, 2013 - loans and advances to employees - reg.

[Issued by the Ministry of Corporate Affairs vide General Circular No. 04/2015, dated 10.03.2015.]

This Ministry has received a number of references seeking clarification on the applicability of provisions of section 186 of the



Companies Act, 2013 relating to grant of loans and advances by Companies to their employees.

2. The issue has been examined and it is hereby clarified that loans and/or advances made by the companies to their employees, other than the managing or whole time directors (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013. This clarification will, however, be applicable if such loans/advances to employees are in accordance with the conditions of service applicable to employees and are also in accordance with the remuneration policy, in cases where such policy is required to be formulated,
3. This issues with the approval of the Secretary.

KMS Narayanan
Assistant Director

06 Clarification relating to filing of e-form DIR-11 & DIR-12 under the Companies Act, 2013 - regarding

[Issued by the Ministry of Corporate Affairs vide General Circular No.03/2015, dated 03.03.2015.]

This Ministry has received several representations about the difficulties faced by stakeholders due to deactivation of Digital Signature Certificate (DSC) following en masse resignation of all the directors of a company before appointment of new directors in their places. The difficulty arises because of automatic deactivation of DSC on filing of DIR-11 (Notice of resignation of a director to the Registrar) by the resigned/resigning Director(s), and none of the new Director's details having been filed. As a result, form DIR-12 (Particulars of appointment of directors and the key managerial personnel and the changes among them) cannot be filed by a company due to lack of an authorized signatory Director.

2. In order to enable the filing of such e-forms and till an alternative mechanism is put in place in MCA21 system, it is clarified that the Registrar of Companies within their respective jurisdictions are authorized, on request from the stakeholders, and after due examination, to allow any one of the resigned director who was an authorized signatory Director for the purpose of filing DIR-12 only along with additional fees, as applicable and subject to compliance of other provisions of Companies Act, 2013.
3. This issues with the approval of Secretary, MCA.

KMS Narayanan
Assistant Director

07 Establishment of connectivity with both the Depositories NSDL and CDSL - Companies eligible for shifting from

Trade for Trade Settlement (TFTS) to Normal Rolling Settlement

[Issued by the Securities and Exchange Board of India vide Circular CIR/MRD/DP/03/2015, dated 24.03.2015]

1. It was prescribed vide SEBI circular no D&CC/FITTC/CIR-05/2001 dated December 26, 2001 that "the scrips of such companies which have not signed agreements and established connectivity with both the Depositories by September 30, 2001 shall be traded on Trade for Trade Settlement (TFTS) mode in the Rolling Settlement from December 31, 2001. These scrips will be moved into normal Rolling Settlement once they have established connectivity with both the Depositories as per the procedure laid down by SEBI"
2. SEBI has been issuing circulars regularly giving the list of companies which have established connectivity with both the Depositories and have become eligible for shifting from TFTS to Normal Rolling Settlement.
3. It has now been decided that henceforth the following procedure shall be followed for the purpose of shifting of trading in securities from TFTS to Normal Rolling Settlement:
 - a) A company, after establishment of connectivity with both the Depositories, shall approach the stock exchange(s) having nationwide terminals for shifting the trading of its securities from TFTS to Rolling settlement.
 - b) The stock exchange(s) shall verify the establishment of connectivity of the company with both the Depositories.
 - c) The stock exchange upon verification of status of establishment of connectivity by the company with both the Depositories may consider shifting the trading in these securities to Rolling Settlement subject to the following:
 - i. At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to Rolling Settlement. For this purpose, the companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer-company does not have a separate RTA, it may obtain a certificate in this regard from a practicing Company Secretary/Chartered Accountant and submit the same to the stock exchange/s.
 - ii. There are no other grounds/reasons for continuation of the trading in TFTS.
 - d) The stock exchanges shall inform the market of the names of companies which have been shifted from TFTS to Rolling



Settlement.

4. Stock Exchanges are directed to bring the provisions of this circular to the notice of the companies listed on the exchange and also disseminate the same on their website.
5. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Maninder Cheema
Deputy General Manager

- (2) gold financing;
- (3) activities not permitted under industrial policy of Government of India;
- (4) any other activity which may be specified by the Board in consultation with Government of India from time to time. "

U.K. Sinha
Chairman

08 Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2014-15/28/542, dated 24.03.2015. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 24.03.2015.]

In exercise of the powers conferred under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to amend the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2015.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 —
 - (I) After regulation 5, the following regulation shall be inserted, namely:-

Delisting offer.

"5A. (1) Notwithstanding anything contained in these regulations, in the event the acquirer makes a public announcement of an open offer for acquiring shares of a target company in terms of regulations 3, 4 or 5, he may delist the company in accordance with provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009:

Provided that the acquirer shall have declared upfront his intention to so delist at the time of making the detailed public statement.

- (2) Where an offer made under sub-regulation (1) is not successful,-
 - (i) on account of non-receipt of prior approval of shareholders in terms of clause (b) of sub-regulation (1) of regulation 8 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; or
 - (ii) in terms of regulation 17 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; or
 - (iii) on account of the acquirer rejecting the discovered price determined by the book building process in terms of sub-regulation (1) of regulation 16 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, the acquirer shall make an announcement within two working days in respect of such failure in all the newspapers in which the detailed public statement was made and shall comply with all applicable provisions of these regulations.

- (3) In the event of the failure of the delisting offer made under sub-regulation (1), the acquirer, through the manager to the open offer, shall within five working days from the date of the announcement under sub-regulation (2), file with the Board, a draft of the letter of offer as specified in sub-regulation (1) of regulation 16 and shall comply with all other applicable provisions of these regulations:

Provided that the offer price shall stand enhanced by an amount equal to a sum determined at the rate of ten per cent per annum for the period between the scheduled date of payment of consideration to the shareholders and the actual date of payment of consideration to the shareholders.

Explanation: For the purpose of this sub-regulation, scheduled date shall be the date on which the payment of consideration ought to have been made to the shareholders in terms of the timelines in these regulations.





- (4) Where a competing offer is made in terms of sub-regulation (1) of regulation 20,-
- the acquirer shall not be entitled to delist the company;
 - the acquirer shall not be liable to pay interest to the shareholders on account of delay due to competing offer;
 - the acquirer shall comply with all the applicable provisions of these regulations and make an announcement in this regard, within two working days from the date of public announcement made in terms of sub-regulation (1) of regulation 20, in all the newspapers in which the detailed public statement was made.
- (5) Shareholders who have tendered shares in acceptance of the offer made under sub-regulation (1), shall be entitled to withdraw such shares tendered, within 10 working days from the date of the announcement under sub-regulation (2).
- (6) Shareholders who have not tendered their shares in acceptance of the offer made under sub-regulation (1) shall be entitled to tender their shares in acceptance of the offer made under these regulations."

(II) After sub-regulation (6) of regulation 18, the following sub-regulation shall be inserted:

"(6A) The acquirer shall facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism as specified by the Board."

(III) In sub-regulation (1) of regulation 22, after the first proviso, the following proviso shall be inserted, namely:-

"Provided further that in case of a delisting offer made under regulation 5A, the acquirer shall complete the acquisition of shares attracting the obligation to make an offer for acquiring shares in terms of regulations 3, 4 or 5, only after making the public announcement regarding the success of the delisting proposal made in terms of sub-regulation (1) regulation 18 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009."

U.K. Sinha
Chairman

09 Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide No. LAD-

NRO/GN/2014-15/27/541, dated 24.03.2015. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 24.03.2015.]

In exercise of the powers conferred by section 31 read with section 21A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), section 30, sub-section (1) of section 11 and sub-section (2) of section 11A of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, namely:-

- These regulations may be called the Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2015.
- They shall come into force on the date of their publication in the Official Gazette.
- In the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009,

(I) in regulation 2, in sub-regulation (1), after clause (iv), the following clause shall be inserted:-

"(iva) "promoter group" shall have the same meaning as assigned to it under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;"

(II) in regulation 2, in sub-regulation (2),

(i) after the words and symbols "'person acting in concert', 'promoter'" word and symbols ", 'acquirer'" shall be inserted;

(ii) the words, symbols and figures "Securities and Exchange board of India(Substantial Acquisition of Shares and takeovers) Regulations, 1997" shall be substituted with the words, symbols and figures "Securities and Exchange board of India(Substantial Acquisition of Shares and takeovers) Regulations, 2011".

(III) in regulation 4,

(i) after sub-regulation (1), the following sub-regulation shall be inserted, namely:-

"(1 A) No promoter or promoter group shall propose delisting of equity shares of a company, if any entity belonging to the promoter or promoter group has sold equity shares of the company during a period of six months prior to the date of the board meeting in which the delisting proposal was approved in terms of sub-regulation (1B) of regulation 8.";

(ii) in sub-regulation (5), the words ' promoter or other person' shall be substituted with the words ' acquirer or





promoter or promoter group or their related entities'.

(IV) in regulation 8,

- (i) after sub-regulation (1), the following sub-regulations shall be inserted, namely:-

"(1A) Prior to granting approval under clause (a) of sub-regulation (1), the board of directors of the company shall,-

- (i) make a disclosure to the recognized stock exchanges on which the equity shares of the company are listed that the promoters/acquirers have proposed to delist the company;
- (ii) appoint a merchant banker to carry out due-diligence and make a disclosure to this effect to the recognized stock exchanges on which the equity shares of the company are listed;
- (iii) obtain details of trading in shares of the company for a period of two years prior to the date of board meeting by top twenty five shareholders as on the date of the board meeting convened to consider the proposal for delisting, from the stock exchanges and details of off-market transactions of such shareholders for a period of two years and furnish the information to the merchant banker for carrying out due-diligence;
- (iv) obtain further details in terms of sub-regulation (ID) of regulation 8 and furnish the information to the merchant banker.

(IB) The board of directors of the company while approving the proposal for delisting shall certify that:

- (i) the company is in compliance with the applicable provisions of securities laws;
- (ii) the acquirer or promoter or promoter group or their related entities, are in compliance with sub-regulation (5) of regulation 4;
- (iii) the delisting is in the interest of the shareholders.

(1C) For certification in respect of matters referred to in sub-regulation (IB), the board of directors of the company shall take into account the report of the merchant banker as specified in sub-regulation (IE) of regulation 8.

(ID) The merchant banker appointed by the board of directors of the company under clause (ii) of sub-regulation (1A) shall carry out due-diligence upon obtaining details from the board of directors of the company in terms of clause (iii) of sub-regulation (1A)

of regulation 8:

Provided that if the merchant banker is of the opinion that details referred to in clause (iii) of sub-regulation (1A) of regulation 8 are not sufficient for certification in terms of sub-regulation (IE) of regulation 8, he shall obtain additional details from the board of directors of the company for such longer period as he may deem fit.

(IE) Upon carrying out due-diligence as specified in terms of sub-regulation (ID) of regulation 8, the merchant banker shall submit a report to the board of directors of the company certifying the following:

- (a) the trading carried out by the entities belonging to acquirer or promoter or promoter group or their related entities was in compliance or not, with the applicable provisions of the securities laws; and
- (b) entities belonging to acquirer or promoter or promoter group or their related entities have carried out or not, any transaction to facilitate the success of the delisting offer which is not in compliance with the provisions of sub-regulation (5) of regulation 4."

(ii) in sub-regulation (3), the word 'thirty' shall be substituted with the word 'five'.

(V) in regulation 10,-

- (i) in sub-regulation (1),
 - (a) After the word "The" and before the words "promoters of the company", the words "acquirers or", shall be inserted;
 - (b) the word "upon" shall be substituted with the words "within one working day from the date of;
- (ii) in sub-regulation (4), after the word "the" and before the words "promoter shall appoint", the words "acquirer or", shall be inserted;
- (iii) in sub-regulation (5), the word "promoter" shall be substituted with the words and symbol "acquirer/promoter";
- (iv) in sub-regulation (6), the word "promoter" wherever occurring shall be substituted with the words and symbol "acquirer/promoter";
- (v) after sub-regulation (6), the following sub-regulation shall be inserted, namely:-

"(7) No entity belonging to the acquirer, promoter and promoter group of the company shall sell shares of the company during the period from the date of the board meeting in which the delisting proposal was approved till the completion of the delisting process."





(VI) in regulation 11,

- (i) in sub-regulation(1), after the word "the" and before the words "promoter shall open", the words "acquirer or", shall be inserted;
- (ii) in sub-regulation(2), after the word "the" and before the words "promoter shall forthwith", the words "acquirer or", shall be inserted.

(VII) in regulation 12, in sub-regulation (1),-

- (i) after the word "the" and before the words "promoter shall despatch", the words "acquirer or", shall be inserted;
- (ii) the words 'forty five' shall be substituted with the word 'two';
- (iii) the words and symbol", so as to reach them at least five working days before the opening of the bidding period" shall be omitted.

(VIII) in regulation 13,

- (i) in sub-regulation (1), the words "fifty five" shall be replaced with the word "seven";
- (ii) after sub-regulation (1) of regulation 13, the following sub-regulation shall be inserted, namely,-
"(1A) The acquirer or promoter shall facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism as specified by the Board.";
- (iii) in sub-regulation (2), the words "minimum period of three working days and a maximum" shall be omitted.

(IX) in regulation 14, in sub-regulation (2), the words "A promoter" shall be substituted with the words "An acquirer or promoter".

(X) in regulation 15,-

- (i) sub-regulation (2) shall be substituted with the following, namely:-
"The floor price shall be determined in terms of regulation 8 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011,as may be applicable.";
- (ii) sub-regulation (3) shall be omitted.

(XI) in regulation 16,-

- (i) in sub-regulation (1), after the word "the" and before the words "promoter shall not be", the words "acquirer or", shall be inserted;
- (ii) in sub-regulation (2),
 - (a) after the word "the" and before the words "promoter decides not to accept", the words "acquirer or", shall be inserted;
 - (b) in clause (a), after the word "the" and before the words "promoter shall not acquire", the words

"acquirer or", shall be inserted;

(c) in clause (c), after the word "the" and before the words "promoter may close ", the words "acquirer or", shall be inserted;

(d) clause (d) shall be omitted;

(iii) sub-regulation (3) shall be omitted.

(XII) Regulation 17 shall be substituted with the following, namely:-

"17. An offer made under chapter III shall be deemed to be successful only if,-

(a) the post offer promoter shareholding (along with the persons acting in concert with the promoter) taken together with the shares accepted through eligible bids at the final price determined as per Schedule II, reaches ninety per cent, of the total issued shares of that class excluding the shares which are held by a custodian and against which depository receipts have been issued overseas; and

(b) atleast twenty five per cent of the public shareholders holding shares in the demat mode as on date of the board meeting referred to in sub-regulation (IB) of regulation 8 had participated in the Book Building Process: Provided that this requirement shall not be applicable to cases where the acquirer and the merchant banker demonstrate to the stock exchanges that they have delivered the letter of offer to all the public shareholders either through registered post or speed post or courier or hand delivery with proof of delivery or through email as a text or as an attachment to email or as a notification providing electronic link or Uniform Resource Locator including a read receipt.

Explanation.- In case the delisting offer has been made in terms of regulation 5A of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the threshold limit of ninety per cent, for successful delisting offer shall be calculated taking into account the post offer shareholding of the acquirer taken together with the existing shareholding, shares to be acquired which attracted the obligation to make an open offer and shares accepted through eligible bids at the final price determined as per Schedule II.

(XIII) In regulation 18,-

- (i) the word "promoter" shall be substituted with the words and symbol "promoter/acquirer";
- (ii) the word "eight" shall be substituted with the word "five".

(XIV) In clause (a) of sub-regulation (2) of regulation 19, the following proviso would be inserted, namely:-

"Provided that the acquirer shall not be required to return the shares if the offer is made pursuant to regulation 5A





of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011."

(XV) After regulation 25, the following regulation shall be inserted, namely:-

"25A. Power to relax strict enforcement of the regulations.

- (1) The Board may for reasons recorded in writing, grant relaxation from strict enforcement of any of the requirements of these regulations, if the Board is satisfied that the relaxation is in the interests of investors in securities and the securities market.
- (2) For seeking exemption under sub regulation (1), the promoter or the acquirer or the company shall file an application with the Board, supported by a duly sworn affidavit, giving details for seeking such exemption and the grounds on which the exemption has been sought.
- (3) The promoter or the acquirer or the company, as the case may be, shall along with the application referred to under sub-regulation (3) pay a non-refundable fee of rupees fifty thousand, by way of a banker's cheque or demand draft payable in Mumbai in favour of the Board.
- (4) The Board may after affording reasonable opportunity of being heard to the applicant and after considering all the relevant facts and circumstances, pass a reasoned order either granting or rejecting the exemption or relaxation sought as expeditiously as possible."

(XVI) In regulation 27,-

- (i) sub-regulation (1) shall be substituted with following, namely:-

"(1) Equity shares of a company may be delisted from all the recognised stock exchanges where they are listed, without following the procedure in Chapter IV, if,-

- a) the company has a paid up capital not exceeding ten crore rupees and net worth not exceeding twenty five crore rupees as on the last date of preceding financial year;
- b) the equity shares of the company were not traded in any recognised stock exchange for a period of one year immediately preceding the date of board meeting referred to in sub-regulation (1B) of regulation 8; and the company has not been suspended by any of the recognised stock exchanges having nation wide trading terminals for any non-compliance in the preceding one year;"
- c)

- (ii) sub-regulation (2) shall be omitted;
- (iii) in sub-regulation (3), the words, symbols and figure "or sub-regulation (2)", shall be omitted.

(XVII) In regulation 31, sub-regulation (2) shall be substituted with following, namely:-

"Any proposal for delisting made by company or any promoter or acquirer who wanted to delist securities of the company, prior to commencement of these regulations and where the offer price has not been determined in terms of sub-regulation (1) of regulation 15 as on the date of such commencement, shall be proceeded with under the Securities and Exchange Board of India (Delisting of Equity) Regulations, 2009 as amended by the Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2015."

(XVIII) In schedule I, after para 16, the following shall be inserted, namely:-

"16A: A statement by the board of directors of the company certifying that:-

- (a) the company is in compliance with the applicable provisions of securities laws;
- (b) the acquirer or promoter or promoter group or their related entities have not carried out any transaction during the aforesaid period to facilitate the success of the delisting offer which is not in compliance with the provisions of sub-regulation (5) of regulation 4;
- (c) the delisting is in the interest of the shareholders."

(XIX) In Schedule II,

- (i) after para 11, the following para shall be inserted, namely,-

"11A. Para 1 to 11 shall not be applicable in respect of the book building process where settlement is carried out through stock exchange mechanism as specified in sub-regulation (1A) of regulation 13 of these regulations."

- (ii) para 12 shall be substituted with the following, namely:-

"12. The final offer price shall be determined as the price at which shares accepted through eligible bids, that takes the shareholding of the promoter or the acquirer (along with the persons acting in concert) to ninety per cent, of the total issued shares of that class excluding the shares which are held by a custodian and against which depository receipts have been issued. If the final price is accepted, then, the promoter shall accept all shares tendered where the corresponding bids placed are at the final price or at a price which is lesser than the final price. The promoter may, if he deems fit, fix a higher final price.

An illustration for arriving at the final offer price is given in the table below:





Bidprice (Rs.)	Number of investors	Demand (Number of shares)	Cumulative (Number of shares)
550	52	50,000	50,000
565	8	4,00,000	6,50,000
575	10	2,00,000	8,50,000
585	4	4,00,000	12,50,000
595	6	1,20,000	13,70,000
600	5	1,30,000	15,00,000
605	3	2,10,000	17,10,000
610	3	1,40,000	18,50,000
615	3	1,50,000	20,00,000
620	1	5,00,000	25,00,000
	48	25,00,000	

Final Offer Price

Assuming floor price of Rs.550/- per share, promoter/acquirer shareholding at 75% and number of shares required for successful delisting as 15,00,000, the final price would be the price at which the promoter reaches the threshold of 90%, i.e., it would be Rs.600/-per share."

U. K. Sinha
Chairman

"3A. The acquirer or promoter shall facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism as specified by the Board."

U.K. Sinha
Chairman

11 Securities and Exchange Board of India (Issue and Listing of Debt Securities (Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2014-15/25/539, dated 24.03.2015. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 24.03.2015.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, namely:—

1. These Regulations may be called the Securities and Exchange Board of India (Issue and Listing of Debt Securities (Amendment) Regulations, 2015.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, -
 - (i) after regulation 17, the following regulation shall be inserted, namely,-

"Right to recall or redeem prior to maturity

17A. An issuer making public issue of debt securities may recall such securities prior to maturity date at his option (call) or provide such right of redemption prior to maturity date (put) to all the investors or only to retail investors, at their option, subject to the following:

 - (a) Such right to recall or redeem debt securities prior to maturity date is exercised in accordance with the terms of issue and detailed disclosure in this regard is made in the offer document including date from which such right is exercisable, period of exercise (which shall not be less than three working days), redemption amount (including the premium or discount at which such redemption shall take place);
 - (b) The issuer or investor may exercise such right with respect to all the debt securities issued or held by them respectively or with respect to a part of the securities so issued or held ;
 - (c) In case of partial exercise of such right in accordance with

10 Securities and Exchange Board of India (Buy-back of Securities) (Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2014-15/29/543, dated 24.03.2015. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 24.03.2015.]

In exercise of the powers conferred under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with clause (f) of sub-section (2) of section 68 of the Companies Act, 2013 (18 of 2013), the Board hereby makes the following Regulations to amend the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 1998, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Buy-back of Securities) (Amendment) Regulations, 2015.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of (Buy-back of Securities) Regulations, 1998, in regulation 9, after sub regulation (3), the following sub-regulation shall be inserted, namely,-





the terms of the issue by the issuer, it shall be done on proportionate basis only;

- (d) No such right shall be exercisable before expiry of twenty four months from the date of issue of such debt securities;
- (e) Issuer shall send notice to all the eligible holders of such debt securities at least twenty one days before the date from which such right is exercisable;

Issuer shall also provide a copy of such notice to the stock exchange where the such debt securities are listed for wider dissemination and shall make an advertisement in the national daily having wide circulation indicating the details of such right and eligibility of the holders who are entitled to avail such right;

- (f) Issuer shall pay the redemption proceeds to the investors along with the interest due to the investors within fifteen days from the last day within which such right can be exercised;
- (g) Issuer shall pay interest at the rate of fifteen per cent, per annum for the period of delay, if any,

(i) After the completion of the exercise of such right, the issuer shall submit a detailed report to the stock exchange for public dissemination regarding the debt securities redeemed during the exercise period and details of redemption thereof.

Explanation.- For the purpose of this regulation, retail investor shall mean the holder of debt securities having face value not more than rupees two lakh."

- (ii) after regulation 20, the following regulation shall be inserted, namely,-

"Consolidation and re-issuance 20A.

An issuer may carry out consolidation and re-issuance of its debt securities, subject to the fulfillment of the following conditions:

- (a) there is such an enabling provision in its articles under which it has been incorporated;
- (b) the issue is through private placement;
- (c) the issuer has obtained fresh credit rating for each re-issuance from at least one credit rating agency registered with the Board and is disclosed;
- (d) such ratings shall be revalidated on a periodic basis and the change, if any, shall be disclosed;
- (e) appropriate disclosures are made with regard to consolidation and re-issuance in the Term Sheet."

- (iii) in Schedule I, in paragraph 3, in sub-paragraph B, in clause (a), in the table, -

(a) the words "call option" wherever appearing shall be substituted with the word "call";

(b) the words "put option" wherever appearing shall be substituted with the word "put".

U. K. Sinha
Chairman

12 Research Analyst Examination : Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2014-15/26/540, dated 24.03.2015. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 24.03.2015.]

In terms of sub-regulation (1) of regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007, the Board may require, by notification, any category of associated persons as defined in the Regulations to obtain requisite certification(s).

2. It is hereby notified that with effect from the date of this notification, any person acting or desirous of acting as research analyst under the Securities and Exchange Board of India (Research Analysts) Regulations, 2014 ("the Regulations"), shall obtain certification from the National Institute of Securities Markets (NISM) by passing the "NISM-Series-XV: Research Analyst Certification Examination", as mentioned in the NISM communique No. NISM/Certification/Series-XV: Research Analyst/2015/01 dated February 16, 2015.
3. Notwithstanding anything contained in this notification, any person acting or desirous of acting as research analyst, may also, in the alternate, obtain certification recognised by the Board from time to time, for the purpose of sub-regulation (2) of regulation 7 of the Regulations.

U. K. Sinha
Chairman

13 SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide Notification No. LAD-NRO/GN/2014-15/24/538, dated 24.03.2015. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 24.03.2015.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, namely:-

1. These regulations may be called the SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2015.



2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, -
 - (i) in regulation 4, in sub-regulation (3), -
 - A. in clause (a), the word "twelve" shall be substituted with the word "eighteen";
 - B. in clause (b), the symbol " . " shall be substituted with symbol" ; " ;
 - C. after clause (b), the following new clauses shall be inserted, namely:-

"(c) the price or conversion formula of the warrants shall be determined upfront and at least 25% of the consideration amount shall also be received upfront;
 - (d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by him, the consideration paid in respect of such warrant shall be forfeited by the issuer."

(ii) in regulation 54, in sub-regulation (7), in the proviso, the words, numbers and symbol "the part payment on application shall not be less than 25% of the issue price and" shall be inserted after the word and symbol "investors,".

U. K. Sinha
Chairman

14 Common Derivatives Certification Examination : Notification under regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2014-15/23, dated 10.03.2015. Published in the Gazette of India, Extraordinary Part Iii—Section 4, dated 10.03.2015.]

In terms of sub-regulation (1) of regulation 3 of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 ("the Regulations"), the Board may require, by notification, any category of associated persons as defined in the Regulations to obtain requisite certification(s).

2. Vide notification numbers LAD-NRO/GN/2009 10/04/163097 dated May 13, 2009, LAD/NRO/GN/2010-11/12/10230 dated June 29, 2010 and LAD-NRO/GN/2012-13/30/5474 dated January 11, 2013, the Securities and Exchange Board of India had specified NISM Series-I: Currency Derivatives Certification Examination ("Series-I: CD"), NISM-Series-IV: Interest Rate Derivatives Certification Examination ("Series-IV: IRD") and NISM Series-VIII: Equity Derivative Certification Examination ("Series VIII: EDCE") respectively for approved users and sales personnel of the trading

- members of the respective derivative segments of a recognised stock exchange.
3. In consultation with the industry, it has been decided that instead of obtaining multiple certifications for various derivative segments as mentioned above, NISM Series XIII: Common Derivatives Certification Examination ("Series-XIII: CDCE") as mentioned in the NISM communiqué No. NISM/Certification/Series- XIII: COM/2014/01 dated December 09, 2014 is notified as an optional examination for the associated persons mentioned in the above cited notifications at para 2. The associated persons who have obtained the Series-XIII:CDCE certification shall be deemed to have obtained the above cited certifications notified for different derivative segments.
4. The trading members shall ensure that all such associated persons who are approved users or sales personnel in the respective derivative segments shall obtain the certification as per the timelines mentioned in the respective notifications.

U. K. Sinha
Chairman

15 SARAL Account Opening Form for resident individuals

[Issued by the Securities and Exchange Board of India vide Circular CIR/MIRSD/1/2015, dated 04.03.2015]

1. It is gathered that a majority of new investors in the securities market begin with participation in the cash segment without obtaining various other facilities such as internet trading, margin trading, derivative trading and use of power of attorney.
2. The account opening process can be simplified for such individual investors. With a view to encourage their participation, it is, therefore, decided that such individual investors can open a trading account and demat account by filling up a simplified Account Opening Form ('AOF') termed as 'SARAL AOF' given at Annexure A. This form will be separately available with the intermediaries and can also be downloaded from the Exchanges' and Depositories' website. The investors who open account through SARAL AOF will also have the option to obtain other facilities, whenever they require, on furnishing of additional information as per prescribed regulations/circulars.
3. The standard set of documents viz. Rights and Obligations document, Uniform Risk Disclosure Document and Guidance Note and documentary proof related to identity and address as specified in SEBI Circulars dated August 22, 2011 and October 5, 2011 shall continue to remain applicable. It is further clarified that the provisions laid down under the PML Act, PML Rules, SEBI Master Circular on AML dated December 31, 2010 and SEBI Circular on AML dated March 12, 2014 shall also continue to remain applicable for set of individual investors mentioned in paragraph 2 above.



4. For these set of individual investors, it has been decided to simplify the requirement of submission of 'proof of address'. The matter has been examined in the light of amendment to the PML Rules, 2005 and accordingly, the requirement of submission of 'proof of address' is as follows:

- a. Henceforth, individual investor may submit only one documentary proof of address (either residence/ correspondence or permanent) while opening a trading account and / or demat account or while undergoing updation.
- b. In case the proof of address furnished by the said investor is not the address where the investor is currently residing, the intermediary may take a declaration of the residence/ correspondence address on which all correspondence will be made by the intermediary with the investor. No proof is required to be submitted for such correspondence/ residence address. In the event of change in this address due to relocation or any other reason, investor may intimate the new address for correspondence to the intermediary within two weeks of such a change. The residence/ correspondence address and any such change thereof may be verified by the intermediary through 'positive confirmation' such as (i) acknowledgment of receipt Welcome Kit/ dispatch of contract notes / any periodical statement, etc. (ii) telephonic conversation; (iii) visits, etc.

5. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992.

A.S. Mithwani
Deputy General Manager

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act of 1956 (42 of 1956), the Central Government hereby makes the following rules further to amend the Securities Contracts (Regulation) Rules, 1957, namely:—

1. (1) These rules may be called as Securities Contracts (Regulation) (Amendment) Rules, 2015.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Securities Contracts (Regulation) Rules, 1957:—
 - (i) in rule 2, for clause (e), the following clause shall be substituted, namely:—
"e) "public shareholding" means equity shares of the company held by public including shares underlying the depository receipts if the holder of such depository receipts has the right to issue voting instruction and such depository receipts are listed on an international exchange in accordance with the Depository Receipts Scheme, 2014:
Provided that the equity shares of the company held by the trust set up for implementing employee benefit schemes under the regulations framed by the Securities and Exchange Board of India shall be excluded from public shareholding.";

- (ii) in rule 19, in sub-rule (2), in clause (b), before sub-clause (i), the following shall be inserted, namely:—

"The minimum offer and allotment to public in terms of an offer document shall be-";

- (iii) in rule 19A, after sub-rule (3), the following new sub-rule shall be inserted, namely:—

"(4) Where the public shareholding in a listed company falls below twenty-five per cent, in consequence to the Securities Contracts (Regulation) (Amendment) Rules, 2015, such company shall increase its public shareholding to at least twenty-five per cent, in the manner specified by the Securities and Exchange Board of India within a period of three years, as the case may be, from the date of notification of:

- (a) the Depository Receipts Scheme, 2014 in cases where the public shareholding falls below twenty five per cent, as a result of such scheme;
- (b) the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 in cases where the public shareholding falls below twenty-five per cent., as a result of such regulations."

Manoj Joshi
Jonit Secretary



16 Securities Contracts (Regulation) (Amendment) Rules, 2015

[Issued by the Ministry of Finance, Department of Economic Affairs vide F.No. 9/1/2013-ECB, dated 25.02.2015. Published in the Gazette of India, Extraordinary Part II—Section 3—Sub-section (i) vide G.S.R. No. 125(E), dated 25.02.2015.]





Members Admitted

S. No.	Name	Membership No.	Region
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FELLOWS*

1	MR. KAUSHIK SONEE	FCS - 7921	EIRC
2	MS. KAJAL KISHOR JAKHARIA	FCS - 7922	WIRC
3	MRS. GARIMA DUGGAL	FCS - 7923	NIRC
4	SH. VIJENDER KUMAR	FCS - 7924	NIRC
5	DR. SATYANARAYAN MAHESHWARI	FCS - 7925	NIRC
6	SH RAJENDRA SINGH B RANA	FCS - 7926	WIRC
7	MR. RAJ CHAWLA	FCS - 7927	NIRC
8	MS. SONAM AGRAWAL	FCS - 7928	SIRC
9	SH. JUGAL KISHORE GUPTA	FCS - 7929	NIRC
10	SH. RAJESH KUMAR RATH	FCS - 7930	NIRC
11	SH. C V N GANGARAM	FCS - 7931	EIRC
12	SH. KIRAN TANGUDU	FCS - 7932	SIRC
13	MR. AMIT MUNDRA	FCS - 7933	WIRC
14	SH AMEET ASHOK KELA	FCS - 7934	WIRC
15	MS. KARAN KAMAL WALIA	FCS - 7935	NIRC
16	SH. BABURAJAN B.K.	FCS - 7936	SIRC
17	SH. ANKIT KISHORE SINHA	FCS - 7937	NIRC
18	MS. SINDHU GOVINDANKUTTY NAIR	FCS - 7938	WIRC
19	MS. PARUL JAIN	FCS - 7939	NIRC
20	SH. GAURAV TOSHKHANI	FCS - 7940	NIRC
21	SH. ANAND R MUNDRA	FCS - 7941	WIRC
22	SH. BHANU BHAI SHARMA	FCS - 7942	WIRC
23	SH. LALIT NARAYAN MATHPATI	FCS - 7943	NIRC
24	SH. KUNAL PRABHAKAR MANDWALE	FCS - 7944	WIRC
25	SH. SHASHANK CARPENTER	FCS - 7945	WIRC
26	SH. RAJEEV KUMAR AGARWAL	FCS - 7946	EIRC
27	SH RUPAK KUMAR SINHA	FCS - 7947	NIRC

ASSOCIATES*

1	MR. RAVI KUMAR	ACS - 38645	NIRC
2	MR. RAUNAK JAIN	ACS - 38646	EIRC
3	MR. RAHUL AGARWAL	ACS - 38647	EIRC
4	MS. ASHA NARDIA	ACS - 38648	EIRC
5	MS. PUNAM SINGH	ACS - 38649	EIRC
6	MR. MANISH SINGH	ACS - 38650	EIRC

7	MR. SANJAYA KUMAR PRADHAN	ACS - 38651	EIRC
8	MS. ANUSHRI GUPTA	ACS - 38652	EIRC
9	MS. PUNITA LOHARKA	ACS - 38653	NIRC
10	MS. PUNAM SINGH	ACS - 38654	EIRC
11	MR. RONAK KEDIA	ACS - 38655	EIRC
12	MS. SUPRIYA KABRA	ACS - 38656	EIRC
13	MS. KOMAL SHUKLA	ACS - 38657	EIRC
14	MS. VIJAYA AGARWALA	ACS - 38658	EIRC
15	MR. OISHIK CHAUDHURI	ACS - 38659	EIRC
16	MS. PUJA SINHA	ACS - 38660	EIRC
17	MR. GAURAV KUMAR UPADHYAY	ACS - 38661	NIRC
18	MS. VINITA RANI	ACS - 38662	NIRC
19	MS. SHEETAL OMRE	ACS - 38663	WIRC
20	MR. PRASHANT SAWANT	ACS - 38664	WIRC
21	MR. NIMESH MANIYAR	ACS - 38665	WIRC
22	MS. MITAL SHAH	ACS - 38666	WIRC
23	MS. JYOTHI SHETTY	ACS - 38667	WIRC
24	MR. HARI HARAN PV	ACS - 38668	SIRC
25	MR. GHANSHYAM BINANI	ACS - 38669	EIRC
26	MR. DURGESH SONI	ACS - 38670	WIRC
27	MR. MANJINDER SINGH	ACS - 38671	WIRC
28	MS. SHRUTHI SIVAKUMAR	ACS - 38672	SIRC
29	MR. MAHESH S	ACS - 38673	SIRC
30	MR. PAWAN KUMAR BAIRWA	ACS - 38674	NIRC
31	MS. SHEENU JAIN	ACS - 38675	NIRC
32	MS. SONIKA GUPTA	ACS - 38676	NIRC
33	MR. PARDEEP KUMAR	ACS - 38677	NIRC
34	MS. SONAL GOEL	ACS - 38678	NIRC
35	MS. KARISHMA JAIN	ACS - 38679	NIRC
36	MR. ANKUR VIJAY	ACS - 38680	NIRC
37	MS. PREETI BALYAN	ACS - 38681	NIRC
38	MS. SNEHA PALAN	ACS - 38682	NIRC
39	MR. DEPAK PATHAK	ACS - 38683	NIRC
40	MS. JASPREET KAUR	ACS - 38684	NIRC
41	MR. DEEPENDRA TEJNANI	ACS - 38685	NIRC
42	MS. SHRUTI VYAS	ACS - 38686	NIRC
43	MS. ANUBHUTI VIJAY	ACS - 38687	NIRC
44	MR. RAMAVTAR JANGID	ACS - 38688	NIRC
45	MS. PARUL JAIN	ACS - 38689	NIRC
46	MS. DISHA ARORA	ACS - 38690	NIRC
47	MS. ANUCHI GOYAL	ACS - 38691	NIRC
48	MS. MADHURI DHANOPIA	ACS - 38692	NIRC
49	MR. PRINCE MOHAN SINHA	ACS - 38693	NIRC
50	MS. SURABHI PASARI	ACS - 38694	NIRC
51	MR. SAMEER KISAN KHEDEKAR	ACS - 38695	WIRC
52	MS. POOJA SHARMA	ACS - 38696	NIRC
53	MS. RUPINDER KAUR	ACS - 38697	NIRC
54	MS. SHREYA JAGNANI	ACS - 38698	EIRC
55	MR. SNEHAL MAHAVIR PAHADE	ACS - 38699	WIRC

*Admitted during the period from 20.02.2015 to 19.03.2015.





News From the Institute

56	MR. TAPAN MALI	ACS - 38700	WIRC	105	MR. HARSH PRADEEP BHANDARI	ACS - 38749	WIRC
57	MS. SALONI MANDLIYA	ACS - 38701	WIRC	106	MR. R ADITYA SUBRAMANYAM	ACS - 38750	WIRC
58	MR. VINAY MISHRA	ACS - 38702	WIRC	107	MR. SWAMINATHAN K	ACS - 38751	SIRC
59	MR. GAURANG RADHESHYAM SHAH	ACS - 38703	WIRC	108	MS. PRIYA K	ACS - 38752	SIRC
60	MS. KALIKA DABHOLKAR	ACS - 38704	WIRC	109	MS. HITASHA	ACS - 38753	NIRC
61	MS. SHRUTI LAUD	ACS - 38705	WIRC	110	MR. ASHWARYA SHARMA	ACS - 38754	NIRC
62	MS. ANKITA KADAM	ACS - 38706	WIRC	111	MS. PRATIMA CHANDRASEKHAR	ACS - 38755	WIRC
63	MR. YATIN WAMAN PANDIT	ACS - 38707	WIRC	112	MR. MAHIDHAR SARSWAT	ACS - 38756	NIRC
64	MS. RASILA GUSAI	ACS - 38708	WIRC	113	MS. ANKITA GUPTA	ACS - 38757	EIRC
65	MR. LAVISH SHEETY	ACS - 38709	WIRC	114	MR. RAHUL CHAWLA	ACS - 38758	NIRC
66	MS. RICHA GOENKA	ACS - 38710	WIRC	115	MS. RADHIKA AGARWAL	ACS - 38759	EIRC
67	MR. GANESH GHAG	ACS - 38711	WIRC	116	MR. ABHISHEK KHANNA	ACS - 38760	NIRC
68	MR. JOHNBOSCO D SOUZA	ACS - 38712	WIRC	117	MR. G KANNAN	ACS - 38761	SIRC
69	MR. HARISH KUMAR MALSATTER	ACS - 38713	WIRC	118	MS. VERSHA VERMA	ACS - 38762	NIRC
70	MR. HARDIK PRAKASH BHUTA	ACS - 38714	WIRC	119	MR. SANCHIT KUMAR	ACS - 38763	NIRC
71	MS. SURABHI RAO	ACS - 38715	SIRC	120	MS. APOORVA BUDHIRAJA	ACS - 38764	NIRC
72	MR. DIPU GEORGE	ACS - 38716	SIRC	121	MR. HARSH KUMAR	ACS - 38765	NIRC
73	MR. AKHIL MITTAL	ACS - 38717	SIRC	122	MR. MAHESH KUMAR	ACS - 38766	NIRC
74	MS. SAVITA	ACS - 38718	NIRC	123	MS. SRISHTI VAJPAYEE	ACS - 38767	NIRC
75	MS. ADITI SHARMA	ACS - 38719	NIRC	124	MR. SUNNY CHOPRA	ACS - 38768	NIRC
76	MR. NIRAJ KUMAR MISHRA	ACS - 38720	NIRC	125	MS. PRENA GAUTAM	ACS - 38769	NIRC
77	MS. NAMRATA MADHYAN	ACS - 38721	WIRC	126	MR. N R KRISHNAN UNNI	ACS - 38770	SIRC
78	MS. DOLLY SHARMA	ACS - 38722	NIRC	127	MR. DIGVIJAY SINGH	ACS - 38771	NIRC
79	MR. RAHUL JOGI	ACS - 38723	NIRC	128	MR. BHARAT BHUSHAN GANDHI	ACS - 38772	NIRC
80	MR. BHARAT HASSANI	ACS - 38724	NIRC	129	MR. GOKUL K	ACS - 38773	SIRC
81	MR. LOKESH DHYANI	ACS - 38725	NIRC	130	MR. KARANVEER JINDAL	ACS - 38774	NIRC
82	MS. KETAKI NILESH KADAM	ACS - 38726	WIRC	131	MR. MOHIT JAIN	ACS - 38775	NIRC
83	MS. KADAMBARI SATISH MADIWALE	ACS - 38727	WIRC	132	MR. KISHOR KUMAR GUPTA	ACS - 38776	WIRC
84	MRS. AARTI SAGAR KOTHARI	ACS - 38728	WIRC	133	MS. NANDHINI B	ACS - 38777	SIRC
85	MS. RASHMI B V	ACS - 38729	SIRC	134	MS. NRITHYA M GANAM	ACS - 38778	SIRC
86	MS. NAVLEEN KAUR ANAND	ACS - 38730	WIRC	135	MS. PRIYANKA VIJAYPRAKASH SINGH	ACS - 38779	WIRC
87	MR. ZAHEERUDDIN M SHAIKH	ACS - 38731	WIRC	136	MR. ROHIT MUCHHAL	ACS - 38780	EIRC
88	MS. HEENA HARESH BHAI JAICHANDANI	ACS - 38732	WIRC	137	MS. HARPREET KAUR KHAMBA	ACS - 38781	NIRC
89	MS. WINNIE CHANDRASHEKHAR SANTWANI MS. PRANATI NARENDRA ASGAONKAR MS. SREEPRIYA KALARIKKAL MS. ADITI BHATT MR. SACHIN VERMA MS. MALA KUMARI UPADHYAY MS. KANIKA YOGENDRA KABRA MR. HARDIK JAYESH SHAH MS. ANUJA SINGH PARIHAR MR. RAHUL GUPTA MS. CHANDNI SRIVASTAVA MR. TUSHAR DEMBLA MS. JESICA SAMSON SHAPURKAR MS. C ANURADHA MR. DINESH KUMAR JAIN MR. JATIN AGGARWAL	ACS - 38733	WIRC	138	MRS. VISHAKHA HARBOLA	ACS - 38782	NIRC
				139	MS. RUPALI KISHOR GONDHALEKAR	ACS - 38783	WIRC
				140	MR. NAVIN PAREEK	ACS - 38784	EIRC
				141	MR. JITENDRA KUMAR CHAURASIA	ACS - 38785	EIRC
				142	MS. KASHNI MAHAJAN	ACS - 38786	NIRC
				143	MS. ABHA GARG	ACS - 38787	NIRC
				144	MS. RITA RUPCHAND PARYANI	ACS - 38788	WIRC
				145	MS. KANMANI L	ACS - 38789	SIRC
				146	MR. TARUN KUMAR	ACS - 38790	SIRC
				147	MS. MUSSARAT MUSTAFA SHAIKH	ACS - 38791	WIRC
				148	MR. LOKESH BOTHRA	ACS - 38792	NIRC
				149	MR. NAVEEN RASTOGI	ACS - 38793	NIRC
				150	MS. RIMLI BISWAS	ACS - 38794	WIRC
				151	MS. NISHA GOENKA	ACS - 38795	EIRC
				152	MS. ASHLEEN KAUR	ACS - 38796	EIRC
				153	MS. SHRUTI CHOKHANI	ACS - 38797	EIRC
90		ACS - 38734	WIRC				
91		ACS - 38735	SIRC				
92		ACS - 38736	NIRC				
93		ACS - 38737	NIRC				
94		ACS - 38738	EIRC				
95		ACS - 38739	WIRC				
96		ACS - 38740	WIRC				
97		ACS - 38741	NIRC				
98		ACS - 38742	EIRC				
99		ACS - 38743	NIRC				
100		ACS - 38744	NIRC				
101		ACS - 38745	WIRC				
102		ACS - 38746	SIRC				
103		ACS - 38747	EIRC				
104		ACS - 38748	NIRC				





154	MR. GAURAV KUMAR VOHRA	ACS - 38798	EIRC	203	MS. BHARTI SANDUJA	ACS - 38847	NIRC
155	MS. SANA SULTAN	ACS - 38799	EIRC	204	MS. NEHA BANSAL	ACS - 38848	NIRC
156	MS. PRIYA AGARWAL	ACS - 38800	EIRC	205	MS. SHIFALI ARORA	ACS - 38849	NIRC
157	MR. JASBIR SINGH	ACS - 38801	NIRC	206	MS. AKANSHA GILL	ACS - 38850	NIRC
158	MS. K ARUNA	ACS - 38802	NIRC	207	MR. MOHIT GULATI	ACS - 38851	NIRC
159	MS. REKHA RANI NARANIWAL	ACS - 38803	NIRC	208	MS. SURBHI AHUJA	ACS - 38852	NIRC
160	MS. AANCHAL AGGARWAL	ACS - 38804	NIRC	209	MR. MONU KUMAR	ACS - 38853	NIRC
161	MR. PRASHANT PANDIA	ACS - 38805	NIRC	210	MS. SONAL BHOOTRA	ACS - 38854	NIRC
162	MR. GOVIND LALWANI	ACS - 38806	NIRC	211	MS. DEEPIKA	ACS - 38855	NIRC
163	MS. NEHA RATHI	ACS - 38807	NIRC	212	MS. RESHAM GOYAL	ACS - 38856	NIRC
164	MS. ANKITA BAFNA	ACS - 38808	NIRC	213	MS. SHAMA JINDAL	ACS - 38857	NIRC
165	MS. NIKITA SHANTIKUMAR HARLALKA	ACS - 38809	WIRC	214	MS. PREETI PANDEY	ACS - 38858	NIRC
166	MR. HITESHKUMAR BACHUBHAI PATEL	ACS - 38810	WIRC	215	MR. SUNIL KUMAR	ACS - 38859	NIRC
167	MR. SHANKAR PRASAD DAS	ACS - 38811	EIRC	216	MS. NIHARIKA JAIN	ACS - 38860	NIRC
168	MS. VAISHALI SURENDRA BHAT	ACS - 38812	WIRC	217	MS. DEEPIKA NIJHAWAN	ACS - 38861	NIRC
169	MR. C R SHIV KUMARAN	ACS - 38813	SIRC	218	MS. PRIYANKA MUNJAL	ACS - 38862	NIRC
170	MR. AVINASH AGARWAL	ACS - 38814	EIRC	219	MS. KAMLESH GUPTA	ACS - 38863	NIRC
171	MS. SHILPA AGARWAL	ACS - 38815	EIRC	220	MR. RAGHAV BANSAL	ACS - 38864	NIRC
172	MS. WAZDA TARANUM	ACS - 38816	EIRC	221	MR. MANISH	ACS - 38865	NIRC
173	MR. KUSHAL JAIN	ACS - 38817	EIRC	222	MR. PRASHANT SINGH	ACS - 38866	NIRC
174	MS. ANKITA DUDHWEWALA	ACS - 38818	EIRC	223	MS. MANJU SHARMA	ACS - 38867	NIRC
175	MS. USHA RANI	ACS - 38819	NIRC	224	MR. PUNEET SINGH	ACS - 38868	NIRC
176	MR. VIRENDER SINGH	ACS - 38820	NIRC	225	MS. PRERNA GOYAL	ACS - 38869	NIRC
177	MS. KRITI BHATIA	ACS - 38821	NIRC	226	MS. RITIKA ARORA	ACS - 38870	NIRC
178	MS. SALONI SINGH	ACS - 38822	NIRC	227	MS. ALMAS PARVEEN	ACS - 38871	NIRC
179	MS. AMRITA MITTAL	ACS - 38823	NIRC	228	MS. MEHAK GARG	ACS - 38872	NIRC
180	MS. SURUCHI BADOLA	ACS - 38824	NIRC	229	MS. NEHA AGGARWAL	ACS - 38873	NIRC
181	MS. ARTI VERMA	ACS - 38825	NIRC	230	MS. MINI SACHETI	ACS - 38874	NIRC
182	MS. SUNAYANA SHARMA	ACS - 38826	NIRC	231	MS. REETIKA SAHNI	ACS - 38875	NIRC
183	MS. RUBY PARAKH	ACS - 38827	NIRC	232	MS. SIMY K JAMES	ACS - 38876	NIRC
184	MS. NAVISHA SINGHAL	ACS - 38828	NIRC	233	MS. POOJA RAWAT	ACS - 38877	NIRC
185	MS. SHIMPI TIWARI	ACS - 38829	NIRC	234	MS. SHWETA DAGA	ACS - 38878	NIRC
186	MS. ROSHNI SHINGARI	ACS - 38830	NIRC	235	MR. ANKUSH TIWARI	ACS - 38879	WIRC
187	MR. ANOOP KUMAWAT	ACS - 38831	NIRC	236	MR. ARUN KUMAR CHOMAL	ACS - 38880	NIRC
188	MS. SABIHA NIYAZI	ACS - 38832	NIRC	237	MR. P NAGARAJAN	ACS - 38881	SIRC
189	MS. PAYAL BANSAL	ACS - 38833	NIRC	238	MR. VINAYAK SHAAHAJIRAO SHITOLE	ACS - 38882	WIRC
190	MR. RISHAV JAISWAL	ACS - 38834	NIRC	239	MS. DIVYA JAIN	ACS - 38883	NIRC
191	MR. ANKIT JAIN	ACS - 38835	NIRC	240	MS. KANAK RATHI	ACS - 38884	WIRC
192	MS. POORTI SETHI	ACS - 38836	NIRC	241	MS. SHRADDHA TRIPATHI	ACS - 38885	WIRC
193	MS. LIPSY GUPTA	ACS - 38837	NIRC	242	MS. HARVI PATEL	ACS - 38886	WIRC
194	MS. JYOTI PANDEY	ACS - 38838	NIRC	243	MS. HARSHITA JAIN	ACS - 38887	SIRC
195	MS. VANDITA JAIN	ACS - 38839	NIRC	244	MS. RASHMI BENIWAL	ACS - 38888	NIRC
196	MR. RAJAT KHANEJA	ACS - 38840	NIRC	245	MR. PRAFFUL GUPTA	ACS - 38889	WIRC
197	MS. SHAGUN TANEJA	ACS - 38841	NIRC	246	MR. R PONNUSWAMY	ACS - 38890	SIRC
198	MR. KARAN KHANNA	ACS - 38842	NIRC	247	MR. MAHENDRA BHIMAPPA HORAGINAMANI	ACS - 38891	SIRC
199	MS. SAMIKSHA GROVER	ACS - 38843	NIRC	248	MS. SARIKA THAKUR	ACS - 38892	WIRC
200	MR. SAMEER MAHANI	ACS - 38844	NIRC	249	MS. SHALINDER KAUR KHOKHER	ACS - 38893	WIRC
201	MS. SHIWANI SHARMA	ACS - 38845	NIRC	250	MS. K KAVITHA	ACS - 38894	SIRC
202	MS. NISHA RANI	ACS - 38846	NIRC	251	MS. PARUL GUPTA	ACS - 38895	NIRC





News From the Institute

252	MR. ANISH KUMARACS - 38896	NIRC	300	MR. ARVINDER SINGH	ACS - 38944	NIRC
253	MS. MEHAK GUPTAACS - 38897	NIRC	301	MR. VAIBHAV JOSHI	ACS - 38945	NIRC
254	MS. RENUACS - 38898	NIRC	302	MS. TANYA GROVER	ACS - 38946	NIRC
255	MR. GOPAL BAGERIAACS - 38899	NIRC	303	MR. ANUJ JAIN	ACS - 38947	NIRC
256	MS. NIKITA SHARMAACS - 38900	NIRC	304	MS. RUCHIKA AGGARWAL	ACS - 38948	NIRC
257	MS. SARITA SHARMAACS - 38901	NIRC	305	MS. RASHI ADLAKHA	ACS - 38949	NIRC
258	MS. T BHUVANESWARIACS - 38902	SIRC	306	MR. MANISH KUMAR SHARMA	ACS - 38950	NIRC
259	MS. SHILPA NADAGERACS - 38903	SIRC	307	MS. SIMRAN KAUR	ACS - 38951	NIRC
260	MR. SUMAN RACS - 38904	SIRC	308	MS. SIMRAN KAUR	ACS - 38951	NIRC
261	MS. SATHIYA SACS - 38905	SIRC	309	MS. NIDHI JAIN	ACS - 38952	NIRC
262	MS. PAVITHRA EACS - 38906	SIRC	310	MS. KANIKA JOSHI	ACS - 38953	NIRC
263	MR. SANJOG MOHAPATRAACS - 38907	SIRC	311	MR. VIJAY	ACS - 38954	NIRC
264	MR. GOVINDA SONIACS - 38908	WIRC	312	MS. GUNJAN GOYAL	ACS - 38955	NIRC
265	MR. KISHOR VILAS KULKARNIACS - 38909	WIRC	313	MS. GARIMA MISHRA	ACS - 38956	NIRC
266	MR. SHRIKANT SHARAD HUDDARACS - 38910	WIRC	314	MS. NANCY JAIN	ACS - 38957	NIRC
267	MS. MADHURA SARDARACS - 38911	WIRC	315	MS. SHEETAL	ACS - 38958	NIRC
268	MR. LALIT KHUBCHANDANIACS - 38912	WIRC	316	MR. SARVJEET SINGH	ACS - 38959	NIRC
269	MR. ALOK MISHRAACS - 38913	WIRC	317	MS. SNEHA GERA	ACS - 38960	NIRC
270	MR. SAGAR SHRIVASTAVAACS - 38914	WIRC	318	MR. GANAPATHI NAMBOODIRI V C	ACS - 38961	SIRC
271	MR. NIGAMKUMAR GOVINDBHAI SATHAVARAACS - 38915	WIRC	319	MR. GANESH ARUNACHALAM	ACS - 38962	SIRC
272	MR. JAIBIND SAHUACS - 38916	WIRC	320	MS. SANGEETHA CHANDRASEKARAN	ACS - 38963	SIRC
273	MS. ARUNIMA TRIGUNAYATAACS - 38917	NIRC	321	MS. NEHA PRAMOD JAIN	ACS - 38964	WIRC
274	MS. ARADHANA GUPTAACS - 38918	NIRC	322	MS. ADITI BHATT	ACS - 38965	WIRC
275	MS. KHUSHBOO VASANT ZOTAACS - 38919	WIRC	323	MR. AJAY KACHER	ACS - 38966	NIRC
276	MS. BINAL SHAHACS - 38920	WIRC	324	MS. TRUPTI BOLKE	ACS - 38967	WIRC
277	MS. KAVITA BARFAACS - 38921	WIRC	325	MS. SONAL DESAI	ACS - 38968	WIRC
278	MR. VIJAY KHANDELWALACS - 38922	WIRC	326	MR. PRAJOT VAIDYA	ACS - 38969	WIRC
279	MS. KRITI KUMARI BIMAL KUMAR DHANUKAACS - 38923	WIRC	327	MS. TANVI SHETH	ACS - 38970	WIRC
280	MS. RAJUL CHOUHANACS - 38924	WIRC	328	MR. RAVIRAJ SONTAKKE	ACS - 38971	WIRC
281	MR. KUNAL RAJESH SARPALACS - 38925	WIRC	329	MR. PIYUSH NIKHADE	ACS - 38972	WIRC
282	MS. AKANSHA TEJPALACS - 38926	NIRC	330	MS. MONIKA CHOUDHARY	ACS - 38973	WIRC
283	MR. VIRAL GIRISH GANDHIACS - 38927	WIRC	331	MR. CHANDRA SHEKHAR BHARGAV	ACS - 38974	WIRC
284	MS. DEEPTI TULSIANIACS - 38928	NIRC	332	MS. PURVA PANDIT	ACS - 38975	WIRC
285	MS. MEERA KUMARIACS - 38929	EIRC	333	MS. MONICA GANDHI	ACS - 38976	WIRC
286	MR. MAYANK KUMARACS - 38930	EIRC	334	MS. MANALI MAKARAND PATANKAR	ACS - 38977	WIRC
287	MR. SHASHANK SHEKHARACS - 38931	EIRC	335	MS. DEEPIKA KHANGAROT	ACS - 38978	WIRC
288	MR. SUJEET CHOUDHARYACS - 38932	EIRC	336	MR. RISHI MISHRA	ACS - 38979	WIRC
289	MR. PRINCE KUMAR SURANAACS - 38933	EIRC	337	MR. ANUJ AGARWAL	ACS - 38980	WIRC
290	MS. NISHI SETHACS - 38934	EIRC	338	MS. PARUL VERMA	ACS - 38981	WIRC
291	MS. PRIYANKA JAINACS - 38935	EIRC	339	MR. JIGAR MAROLIA	ACS - 38982	WIRC
292	MR. KAPIL TYAGIACS - 38936	NIRC	340	MS. RESHMA RAMCHANDANI GANSHYAMDAS	ACS - 38983	WIRC
293	MS. PARUL AGRAWALACS - 38937	NIRC	341	MS. DIMPLE CHOUDHARI	ACS - 38984	WIRC
294	MR. AMAN AGGARWALACS - 38938	NIRC	342	MS. PRIYANKA MOHTA	ACS - 38985	EIRC
295	MR. DIVYANG JAINACS - 38939	NIRC	343	MS. FLAVIA PETER MACHADO	ACS - 38986	WIRC
296	MS. GUNJAN BHATIAACS - 38940	NIRC	344	MR. SRIGOPI K	ACS - 38987	SIRC
297	MS. MANISHA GUPTAACS - 38941	NIRC	345	MS. POOJA MITTAL	ACS - 38988	NIRC
298	MR. MUDASSIR AHMAD PADDARACS - 38942		346	MR. SHAILESH SHYAM AYACHIT	ACS - 38989	SIRC
299	MS. HARJINDER KAURACS - 38943		347	MS. KOMAL ANANT SALVI	ACS - 38990	WIRC

NIRC





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Sl.No.	Name	ACS/FCS No.	Region
1	SH. VINOD KUMAR BAPNA	FCS 3136F	WIRC
2	SH. ANURAG CHAUHAN	ACS 16169	NIRC
3	SH N V JOSHI	FCS 986	WIRC
4	MRS. TANUJA JAYDEEP SARDESAI	ACS 20436	WIRC
5	SH H MADHAVAN	ACS 10006	SIRC
6	SH SUNIL GAJANAN JOGLEKAR	ACS 10636	WIRC
7	SH. ARUN KUMAR JHAWAR	ACS 19660	WIRC
8	MS. POONAM GOURISHANKAR KEJARIWALACS	28290	WIRC
9	MS. POONAM GOURISHANKAR KEJARIWALACS	2810	WIRC
10	MR. KAILAS WALMIKRAO KHILARI	ACS 30692	WIRC
11	MS. SRIPRIYA BALASUBRAMANIAN	ACS 11732	WIRC
12	SH. S SRINIVASAN	FCS 2142	WIRC
13	SH. PIYUSH RAJENDRA BUBNA	ACS 21925	WIRC
14	MS. ISHA JAIN	ACS 25838	NIRC
15	MS. RASHMI GUPTA	ACS 25382	NIRC
16	SH. RAJENDR RAO	ACS 14646	NIRC
17	MS. VARINDER KAUR	ACS 19432	NIRC
18	MR. BHARAT RATHI	ACS 32842	WIRC
19	SH. VINOD KUMAR BAPNA	ACS 13704	NIRC
20	MRS. PREETI BANSAL	ACS 33603	NIRC
21	SH. S RAMANATHAN	ACS 11217	SIRC
22	SH. GOVIND KUMAR RAJAGOPAL	ACS 4670F	SIRC
23	MS. LALITHA RAMAKRISHNAN	ACS 25168	SIRC
24	SH. AMIT GUPTA	FCS 4466	WIRC
25	SH. SACHIN SARDA	ACS 20930	WIRC
26	MS. PREETI SHETTY	ACS 23356	WIRC
27	SH. D DURAIRAJ	ACS 17848	SIRC
28	SH. G VENKATESWARA RAO	FCS 3263	NIRC
29	SH. SYED qAMAR AHMAD	FCS 6445	NIRC
30	SH. RAJEEV JAIN	FCS 6049	WIRC
31	SH. PRASHANT J DOSHI	ACS 5816	WIRC
32	SH K R CHANDRASEKHAR	ACS 16841	SIRC
33	MRS. PAYAL GARG	ACS 23128	WIRC
34	MS. HANISHA LALWALA	ACS 23348	WIRC
35	SH. SUNIL KUMAR AGARWAL	ACS 13547	EIRC
36	SH. SUNEEL BHAT	ACS 25522	NIRC
37	SH. S THARMARAJAN	ACS 2573	SIRC
38	SH NIRMAL SINGH BHATI	ACS 24501	NIRC
39	SH ASHWANI DHANAWAT	ACS 15588	NIRC
9	MS. KEJAL BABULAL MEHTA	ACS - 31398	WIRC 14314
10	MRS. MANSEE MANISH SHAH	ACS - 22524	WIRC 14315
11	MS. ANJALI GUPTA	ACS - 32062	NIRC 14316
12	MS. GEETANJALI DUA	ACS - 38330	NIRC 14317
13	MS. NIMISHA GROVER	ACS - 37523	NIRC 14319
14	MRS. PRATEEKSHA KEDIA	ACS - 36866	NIRC 14320
15	MS. JOTHI J	ACS - 38249	SIRC 14321
16	MS. ANKITA SUSHIL JASRAPURIA	ACS - 38477	WIRC 14322
17	MS. VARSHA JAIN	ACS - 24309	NIRC 14323
18	MS. ANSHU TOMAR	ACS - 31486	NIRC 14324
19	MR. NANDAN DINKAR SHANBHAG	ACS - 37360	SIRC 14325
20	MR. GANAPATI BHAT	ACS - 37568	SIRC 14326
21	SANYAM GOEL	ACS - 20075	NIRC 14327
22	SH. GANESH UMASHANKAR	ACS - 15771	WIRC 14328
23	MR. ARUN RAO M G	ACS - 29000	SIRC 14329
24	MR. SUSHANTA KUMAR DEHURY	ACS - 37539	EIRC 14330
25	MR. ANSHUMAN JAIN	ACS - 38382	EIRC 14331
26	MR. AMIT CHATURVEDI	ACS - 28556	NIRC 14332
27	SH. A PANDEY	FCS - 1281	NIRC 14333
28	MR. PRITAM SURESHRAO KATARMAL	ACS - 38370	WIRC 14335
29	MR. UPENDER JAJOO	ACS - 33121	NIRC 14336
30	MR. SUMIT	ACS - 34665	NIRC 14337
31	MS. PERNEEKA VIRMANI	ACS - 32314	NIRC 14338
32	MS. DIKSHA	ACS - 38498	NIRC 14339
33	MS. S EZHIL JOTHI	ACS - 37270	SIRC 14340
34	MS. R PAVITHRA	ACS - 37993	SIRC 14341
35	MS. PRIYANKA HIRAWAT	ACS - 38332	NIRC 14342
36	MS. PREITY SIKARIA	ACS - 38385	EIRC 14343
37	MS. NEHA JAIN	ACS - 30822	NIRC 14344
38	MS. SMRUTHI SREE CHUNDRUI	ACS - 38527	SIRC 14345
39	MS. TRUPTI ANANDRAO CHENDAKE	ACS - 38423	WIRC 14346
40	SH. SAURABH BASU	ACS - 18686	EIRC 14347
41	MR. KAILASH CHANDRA PANDEY	ACS - 26568	NIRC 14348
42	MR. ABHISHEK MODI	ACS - 38253	WIRC 14349
43	MR. ROHIT GUPTA	ACS - 38546	EIRC 14350
44	MR. SANJAY SHARMA	ACS - 38499	NIRC 14351
45	MR. ALTAMISH	ACS - 38430	NIRC 14352
46	SH. RONALD VIKRAM D'MELLO	FCS - 3818	WIRC 14353
47	SH. CHAITHANYA KRISHNA MURTHY	ACS - 23293	SIRC 14354
48	GOGINENI	ACS - 38476	SIRC 14355
49	MS. RALLABHANDI LAKSHMI SARADA	ACS - 38362	SIRC 14356
50	MS. EKTA AGRAWAL	ACS - 38153	EIRC 14357
51	MS. SHWETA BAJLA	ACS - 25544	NIRC 14358
52	MS. SHWETA GUPTA	ACS - 36270	WIRC 14359
53	MS. POOJA MAHENDRAKUMAR PUNMIY	ACS - 23210	SIRC 14360
54	MRS. SHITAL DARAK MANDHANA	ACS - 38613	EIRC 14361
55	MS. RITIKA	FCS - 6755	NIRC 14362
56	SH. VIRENDRA KUMAR GUPTA	ACS - 36990	NIRC 14363
57	MR. HARSHAL	ACS - 35920	NIRC 14364
58	MR. PUNEET MAHESHWARI	ACS - 18030	SIRC 14365
59	SH. ANILKUMAR G	ACS - 35117	SIRC 14366
60	MR. DILIP KUMAR SENAPATI	ACS - 26616	SIRC 14367
	SH. RAMRAJ LAKSHMANAN		

Certificate of Practice**

SL. No.	NAME	MEMB NO	COP REGION NO.
1	MS. SHWETA SINGH	ACS - 37858	NIRC 14306
2	MR. YATISH KUMAR MAROO	ACS - 30336	SIRC 14307
3	MRS. NIDHI NUTAN DARDA	ACS - 21329	NIRC 14308
4	MS. MADHULATA	ACS - 38391	NIRC 14309
5	MS. MADHURI RAJENDRA MORE	ACS - 27540	WIRC 14310
6	MS AMRUTA PRANESH JAHAGIRDAR	ACS - 21502	SIRC 14311
7	MS. POOJA JAIN	ACS - 27906	NIRC 14312
8	MS. HEMAL NAVINCHANDRA MEHTA	ACS - 37170	WIRC 14313

*Restored from 21.02.2015 to 20.03.2015
 **Issued during the Month of February, 2015





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61	MS. DEVIKA SHARMA	ACS - 34867	NIRC	14368
62	MS. SHWETA AWASTHI	ACS - 37850	NIRC	14369
63	MR. SUDHARMAN M S	ACS - 37863	SIRC	14370
64	SH. SASHIKANTA PARIDA	FCS - 4125	EIRC	14371
65	MR. VINEETH T	ACS - 38575	SIRC	14372
66	MS. ARCHANA DINESH WARADE	ACS - 33074	WIRC	14373
67	MS. GARIMA SMRITI	ACS - 38312	EIRC	14374
68	MS. PRITIKA SURANA	ACS - 38316	WIRC	14375
69	MRS. ANJU AGARWAL	ACS - 25188	EIRC	14376
70	MS. ANU KUMARI	ACS - 30992	SIRC	14377
71	MS. YESHA H SHAH	ACS - 38469	SIRC	14378
72	MS. CHARMI DHIRENDRA SHAH	FCS - 7028	WIRC	14379
73	MS. VARSHA SINGH	ACS - 36911	EIRC	14380
74	MR. SURAJ SINGH	ACS - 37626	NIRC	14381
75	MR. HARDIK KAUSHIK PATHAK	ACS - 34070	WIRC	14382
76	SH. GIRISH M NADKARNI	ACS - 11036	WIRC	14383
77	MR. NALLASAMY K	ACS - 32747	SIRC	14384
78	MR. P DOLESWAR RAO	ACS - 38387	EIRC	14385
79	SH. PADAM CHAND GUPTA	ACS - 13296	NIRC	14386
80	MR. SANDEEP KUMAR	ACS - 34263	NIRC	14387
81	MS. KAVITA THAKER	ACS - 38041	EIRC	14388
82	MR. MANGESH ANANDRAO NARVEKAR	ACS - 38406	WIRC	14389
83	MR. AMIT KUMAR	ACS - 36223	NIRC	14390
84	MRS. DIVYA ASHUTOSH PUGALIA	ACS - 31184	NIRC	14391
85	MS. SIMRAN JEET KAUR	ACS - 36242	NIRC	14392
86	MS. ASTHA NEBHANI	ACS - 38340	NIRC	14393
87	MRS. DHANASHRE ANKUR TALWELKAR	ACS - 26254	WIRC	14394
88	MS. POOJA BAHETI	ACS - 38468	SIRC	14395
89	MS. POOJA SHARMA	ACS - 38696	NIRC	14396
90	MS. SHILPA VEERESH H M	ACS - 30611	SIRC	14397
91	MS. BHARTI MANGAL	ACS - 37904	NIRC	14398
92	MS. ARCHANA S	ACS - 31392	SIRC	14399
93	MS NAMRATA N VYAS	ACS - 20280	WIRC	14400
94	MS. SNEHA AGARWAL	ACS - 34455	NIRC	14401
95	MS. NIKITA AGARWAL	ACS - 38235	SIRC	14402
96	SH. ASHISH KUMAR DHANDHANYA	ACS - 29105	EIRC	14403
97	SH. KALYAN RAMASWAMY	ACS - 10995	SIRC	14404
98	MR. SANJEEV SHARMA	ACS - 38027	NIRC	14405
99	MR. HIMANSHU MAHESHWARI	ACS - 38047	WIRC	14406
100	MR. ARDESHNA PRATIKKUMAR SHANTILAL	ACS - 38556	WIRC	14407
101	MR. K SHANMUGAM	ACS - 37566	SIRC	14408
102	SH. MAYA RAM MALGURI	FCS - 2104	NIRC	14409
103	SH. NARAYAN CHANDRA MUKHERJEE	ACS - 2302	EIRC	14410
104	MR. RAJESH KUMAR	ACS - 38585	NIRC	14411
105	MR. SANJAY KISHOR DINGARE	ACS - 28541	WIRC	14412
106	SH. VIJAY KANT ASIJA	ACS - 13390	NIRC	14413
107	MS. SONAM GARG	ACS - 30550	NIRC	14414
108	MS. AKANSHA CHUGH	ACS - 38403	NIRC	14415
109	MR. ARPAN SENGUPTA	ACS - 37706	EIRC	14416
110	SH. PRAN NATH KUMAR	FCS - 1223	NIRC	14417
111	MS. SATRASALA SRUTHI	ACS - 38356	SIRC	14418

CANCELLED*

SL. NAME	MEMB NO	COP REGION NO.	
1MR. MADHUR JAIN	ACS 29111	10814	NIRC
MS. SONAL SURESHCHANDRA			
2 CHECHANI	ACS 29283	11371	WIRC
3MS. PREETI SHETTY	ACS 23356	11317	WIRC
4MR. ROBIN KESHRI	ACS 25288	13216	EIRC
5MR. VIKRAM KUMAR	FCS 6068	6407	NIRC
6MS. SURAVI GOYAL	ACS 31543	12541	EIRC
7MR. SAURABH GUPTA	ACS 35928	13912	NIRC
8MS. SADHANA TAMHANKAR	ACS 22448	6570	WIRC
9MRS. SHILPA SETH	ACS 30428	11336	WIRC
10 MS. HARSHADA NANDKUMAR EKLAHARE	ACS 28708	13943	WIRC
11 MS. REMYA R S	ACS 27514	11857	SIRC
12 MR. RAJINDER KUMAR	FCS 7581	13791	NIRC
13 MS. MITTAL KEVIN SHAH	ACS 31901	11687	WIRC
14 MR. DEVENDRA SINGH VARMA	FCS 7372	12539	WIRC
15 MR. YOGENDRA EKNATH AHIRE	ACS 32976	12349	WIRC
16 MRS. RASHMI AGARWAL	ACS 23383	8635	EIRC
17 MS. GURLEEN BHATIA	ACS 30290	13854	NIRC
18 MS. PRAGYA JAISWAL	ACS 31952	12615	EIRC
19 MS. PRIYANKA OBEROI	ACS 32400	12646	NIRC
20 MR. NIMESH KUMAR	ACS 28487	10247	NIRC
21 MR. PRASHANT GANGADHAR TAYSHETE	ACS 35869	13438	WIRC
22 MS. KUMKUM R SHAH	ACS 15079	10277	WIRC
23 MR. JEETU AHUJA	ACS 36543	13644	NIRC
24 MR. RATNESH KUMAR PANDEY	ACS 33772	12951	EIRC
25 MS. PAYAL RAJESH RANA	ACS 30834	11946	WIRC
26 MR. G R MURTHY	ACS 7594	12444	SIRC
27 MS. NEHA SARAF	ACS 34973	12990	EIRC
28 MS. PATEL RADHIKA DAMJIBHAI	ACS 31050	11799	WIRC
29 MR. DEPESH KUMAR	FCS 6957	7063	NIRC
30 MS. MALA LALCHANDANI	ACS 27315	9782	WIRC
31 MR. LOVLESH VERMA	ACS 34171	13398	NIRC
32 MR. DATTARAJ SUBHASH TILVE	ACS 36426	13587	WIRC
33 MR. MANDAR SHIRISH KARNIK	ACS 34952	13163	WIRC
34 MRS. VIDHYA PRATIK BOOB	ACS 22022	12907	WIRC
35 MR. ABHISHEK SAXENA	ACS 35399	13203	NIRC
36 MRS. RAJESHWARI MUKUNDAN	ACS 34618	13056	SIRC
37 MS. PUJA AGRAWAL	ACS 22625	11839	WIRC
38 MR. V N BALA SUBRAMANIAN	ACS 8039	11772	SIRC
39 MRS. RUCHIKA NAYYAR	ACS 24887	12591	NIRC
40 MR. SUBHENDU BHUSANA MOHAPATRA	ACS 26614	11199	NIRC
41 MRS.SNEHA AMIT PATWARDHAN	ACS 23266	9947	WIRC
42 MS. BHOOMIKA RAMESH THAKORE	ACS 24465	13354	NIRC
43 MR. ABHISHEK MAHAJAN	ACS 32961	12186	WIRC
44 MRS. ANSHU DAGA	ACS 25170	9086	WIRC
45 MR. UDH BHAV PRATAP SINGH	ACS 36638	13808	NIRC

LICENTIATE ICSI**

S.No.	NAME	NUMBER	Region
1	SH C ARUN KUMAR	6730	SIRC
2	SH PANKAJ KAPOOR	6731	NIRC
3	MR ARPIT GUPTA	6732	NIRC
4	MS SUMANA CHANDRASHEKAR	6733	SIRC

*Cancelled during the Month of February, 2015.

**Admitted during the Month of February, 2015.





List of Practising Members Registered For The Purpose of Imparting Training During The Month of December, 2014

A36853	ABHISHEK LAMBA	SHOP NO. 1, 1ST FLOOR, C-12, HOTEL MALIK CONTINENTAL, MAIN, ROAD MASOODPUR, VASANT KUNJ, NEW DELHI	13754
A30609	ABHISHEK OMPRAKASH JHANWAR	2014, TRADE HOUSE, RING ROAD, SURAT	11176
A33076	AJIT KAMAL SHARMA	SHRI DHAVALGIRI SOCIETY, 302, OPP. VARTAK NAGAR-POLICE STN. VARTAK NAGAR, THANE (W)	13248
A37729	AMIT PALIWAL	BE-196, GALI NO.2, FIRST FLOOR, HARI NAGAR, NEW DELHI	14106
A28448	ANITA GOPALAKRISHNAN	B401, RED ROSE, ETA APARTMENT, OPP. HINDUSTAN UNIVERSITY, PADUR, CHENNAI	11419
A18618	ANJALI BINDAL	2/196, VIRAT KHAND, GOMTI NAGAR, LUCKNOW	
A34471	ANURAG FATEHPURIA	23/1, SITA NATH BOSE LANE, SALKIA, HOWRAH	11665
A10779	BHOOMIHA MURALI	NO.13 GROUND FLOOR, 14TH STREET, NANGANALLUR, CHENNAI	
A34985	GUR PREET KAUR	107, NEW DELHI HOUSE, 27, BARAKHAMBA ROAD, NEW DELHI	
A29372	ISHA SINGHAL	37-C, NEW MANDI, MUZAFFARNAGAR	12673
A23149	J BHAVANA CHAKRAGIRI	S 1, ISHAN APARTMENTS, 8TH A MAIN, 1ST CROSS, SRINIDHI LAYOUT, VIDYARANYAPURA, BANGALORE	14011
		4B/20, GROUND FLOOR, NEAR B K JEWELLARY, TILAK NAGAR, NEW DELHI	12312
		PLOT NO. 350, FLAT NO, 203, VAKRATUNDA APPT., NEAR DIPTI, SIGNAL WATER TANK, EIA ROAD, NAGPUR	
F6264	JASMEEN KAUR	D-24, OLD DOUBLE STOREY, LAJPAT NAGAR IV, NEW DELHI	6638
A35845	JIGAR JEETANDRA GORSIA	KBR COMPLEX 4 HO CHI MINH SARANI FLAT NO 3C KOI KATA	13231
F6288	KRITI DAGA	A/1902, GREAT EASTERN GARDENS, LBS MARG, KANJUR MARG (W), MUMBAI	
A26425	MAHALAKSHMI R	PLOT NO-3428/9014, KAPILESWAR VIHAR, PALASUNI, RASULGARH, BHUBANESWAR	
A25320	MANIK ROUJ	B-101, KOTESHWAR PALACE, JIVA MAHALE MARG, OPP. GARWARE PLASTICS, ANDHERI (E), MUMBAI	11099
A34309	MEGHA NEERAJ	L & T HOUSE, N M MARG, BALLARD ESTATE, MUMBAI	14023
A23895	AGRAWAL	A/205, MANGALAM APARTMENTS, THAKUR COMPLEX, KANDIVALI EAST, MUMBAI	14292
	NAINA R DESAI	202, BHADANI PALACE, B/H CITI BANK, GHOD POD ROAD, SURAT	13445
	NEHA SHYAMLAL GUPTA	2, SILVER PARK, NEAR PALACE, MAHAVIR NAGAR, HIMATNAGAR, SABARKANTHA DISTT	12792
F1351	NEHAL BHARAT RATHOD	37, OM SAI BUILDING, 2ND FLOOR, KARELWADI, THAKURDWAR ROAD, CHARNI ROAD, MUMBAI	
A30523	NIKHIL DINESHBHAL SONI	A-5/337, PASCHIM VIHAR, NEW DELHI	13365
A35982	NIKITA KOTHARI	3, KUMAR VILAS, GROUND FLOOR, 5-A, MANGALWADI, J.S.S. ROAD, GIRGAUM, CHARNI ROAD (EAST), MUMBAI	11093
F7558		2014, TRADE HOUSE, RING ROAD, SURAT	13524
A35597			7973
			13507
A18157	PANKAJ DAWAR		14270
A27939	POOJA JITENDRA THAKKAR		11637
A32693	PRASHANT KUMAR KULSHRESTHA		11986
A36450	PREM KANT JHA		
A26760	RAJASHRI SAI	C/O SHREE RAMANAND BHARDWAJ, GALIN NO. 9, 230/27-DI, RAILWAY COLONY, MANDAWALI, DELHI	13538
A25589	RAJESH SAMPATKUMAR MODANI	FLAT NO. 21, H4, PARADISE, CHS SECTOR - 7, SANPADA, MUMBAI	10496
A36753	RICHA PRASHAR	B/3, 303, KAMALA PARK, 60 FEET ROAD, BHAYANDER (WEST)	13845
A22614	RUCHI VIJAY	HOUSE NO. 177, SECTOR-31, NEAR PRISTINE MALL, FARIDABAD	13682
A36877	S ASHOKKUMAR	MANTRI PARK-LUPIN 104, NEAR MAHADA BUNGALOWS, DINDOSHI FILM CITY, RD, GOREGAON (E), MUMBAI	11450
A33436	SHAILENDRA SINGH	139/1, FIRST FLOOR, SANKARA NILAYAM PERUNDURAI ROAD, ERODE	
A9590	SHIPRA CHATREE	F-264 A, PANDAV NAGAR, NEW DELHI	12448
A35167	SHUBHICA AGRAWAL	6, POCKET E-4, SECTOR 7, ROHINI, DELHI	13539
		12/INDIRA PARK, PANKHA ROAD, NEW DELHI	14162





A36432	SNEHA WILSON PETER	B 3-303, RUNWAL SEAGULL SOC., NEAR GANGA VILLAGE, HANDEWADI ROAD, HADAPSAR, PUNE	14135
A26060	SWATI MAHESHWARI	FLAT NO. 3, 2A, ASHIRWAD BUILDING, ASHA NAGAR, THAKUR COMPLEX, KANDIVALI (EAST), MUMBAI	11064
A27396	TANMAY KUMAR SAHA	11, SARDAR PARA, 2ND FLOOR, BADAMTALA, BRAHMOPIUR, KOLKATA	11918
A29432	TANZEEM RAINEE	275/A-MEERPUR CANTT, NEAR DON BOSCO SCHOOL, KANPUR	12267
F6601	VAISHALI MANILAL	11/124, ANAND VIHAR APARTMENT, OPP. HIMMATLAL PARK BUS STOP, NR. AZAD SOCIETY, AHMEDABAD	13884
	KAMDE VEENA UMASHANKAR	#15, KARTHIK FLATS, DOOR #7, 1ST FLR, BHUVANESHWARI NAGAR, 2ND STREET, HASTINAPURAM, CHROMEPEET, CHENNAI	
A26839	IYER VINAY DIXIT	569 KA/108/4, SNEH NAGAR, ALAMBAGH, LUCKNOW	10830
	YAMINA ALMAS	FIRST FLOOR, SHOPPING COMPLEX, COOPERATIVE COLONY, PEERBAGH, SRINAGAR	
A32770	YOGESH KUMAR	902 903, 9TH FLOOR, VIJAYA BUILDING, 17, BARAKHAMBHA ROAD, NEW DELHI	13360
A36331	YOGESH MATAPRASAD	B/L GRD FLOOR, NEHA APARTMENTS, OPP. BADWAIK HOSPITAL, LBS MAR. BHANDUP (W), MUMBAI	13561
A31980	SHARMA		13775
A33235			12366



List of Companies Registered for Imparting Training during the month of December 2014

ACME Cleantech Solutions Limited
Plot No. 152, Sector 44, Gurgaon-37, Haryana

Ascension India Industries Limited
A-965, 2nd Floor J.J. Colony, Pankha Road, New Delhi

Associated Soapstone Distributing Company Private Limited
Golcha Gardens, Agra Road, Jaipur

BCH Electric Limited
1105 New Delhi House, 27 Barakhamba Road, New Delhi

Bharat Potteries Limited
F-555-559, Road No 6, VKI Area, Jaipur

Bihar State Building Construction Corporation Limited
Hospital Road, Shastri Nagar, Patna-800023

BLS Infrabuild Private Limited
B-27, Lower Ground Floor, South Extension-II, Delhi

C.M. Goenka Stock Brokers Private Limited
206, Jaipur Tower, M.I. Road, Jaipur

CEC International Corporation India Private Limited
Tower B, 7th Floor, Signature Tower, Sector 29, Gurgaon

Ceramic Tableware Pvt Ltd
S-707(A), Road No 6 VKI Area, Jaipur

Challenge Consultancy Service Private Limited

2, Tardeo Ac Market, 4th Floor, Tardeo Road, Mumbai 400034

Chennaiyin F.C. Sports Private Limited
3A, Barodawala Mansion, 81, Dr. Annie Besant Road, Worli
Mumbai

Claris Otsuka Private Limited
5th Floor, Claris Corporate Headquarters, Nr. Parimal Crossing,
Ellisbridge, Ahmedabad

Comviva Technologies Limited
A 26, Info City, Sector 34, Hero Hondo Chowk, Gurgaon

Diamond Footcare Udyog Private Limited
A-9, Mayapuri Industrial Area, Phase-II, Delhi-110064

Disha Microfin Private Limited
404, 4th Floor, 3rd Eye Building, Panchvati Cross Road, C.G.
Road, Ahmedabad

Dolphin Mart Private Limited
B-210, Okhla Industrial Area, Phase-I, Delhi

E F C Logistics India Pvt Ltd
310, Al-Akbari Mansion, 27, Weston Street, Kolkata

Eduworth International Limited
Koma Khan House, Civil Lines, Raipur
Ekon India Private Limited
Ground Floor, Om Sadan Building, Mehra Industrial Estate,
L.B.S Marg, Vikhroli West, Mumbai

G.Raj And Company Consultants Limited
6/7A, 9 India Exchange Place, Kolkata

Geosansar Advisors Private Limited
8-2-684/2/A, 2nd Floor, NSL Icon, Road No. 12, Banjara Hills
Hyderabad



News From the Institute

Gerdau Steel India Ltd
304/305, World Trade Centre, 26/1 Dr. Rajkumar Road,
Malleswaram (West), Bangalore

Grass Field Fire Capital Developers Private Limited
K-107, Club Lane, Kishan Nagar, Shyam Nagar, 302019, Jaipur

Growing Opportunity Finance (India) Private Limited
No.73, Y Block, 6th Street, Anna Nagar
Chennai -600040

Harsh Macro Buildhome Pvt. Ltd.
Harsh Tower, Plot No. 8, Triveni Nagar Mod, Gopalpura
Byepass, Jaipur

International Specialty Products India Private Limited
No. 601, 606-608, Platinum Technopark, Plot No. 17-18, Sector-
30A, Vashi, Navi Mumbai

Jai Jai Ram Singh Infrastructure Private Limited
206, Radisson Suites, Bestech Chambers, Sushant Lok-I,
Gurgaon

Jamshedpur Mineral Wool Manufacturing Company Private
Limited
M-13, Connaught Place, New Delhi

JMJA & Associates LLP
Ground Floor, Jay Ambika Apt, Carter Road No. 3, Opp. Ambe,
Mata Temple, Borivali East, Mumbai

JNS Instruments Ltd.
Plot No. 4, Sector-3, IMT- Manesar, Distt. Gurgaon, Haryana-
122050

Khanna & Associates
47 SMS Colony Shipra Path Mansarovar, Jaipur

KPS Legal
806, Aggarwal Cyber Plaza-1, Netaji Subhash Place-1,
Pitampura, Delhi

Mangalam Ores Private Limited
K-23A, Civil Township, Rourkela

Mumbai Aviation Fuel Farm Facility Private Limited
1st Floor, Terminal 1B, CSI Airport, Mumbai

Narnolia Securities Limited
6/7A, 9 India Exchange Place, Kolkata

Nayati Healthcare & Research Pvt Ltd
Block 3A, 3rd Floor, DLF Corporate Park, DLF City, Gurgaon

Nyay Mitra
131, Rampurawala Building, 70, Mg Road, Indore

Panchavaktra Infra-Tech Ltd
B-114, Wellington-2, DLF Phase.5, Gurgaon

Parthasarathi Assets Private Limited
Ground Floor, 9, Diwan Plaza, Lokmat Square
Wardha Road, Ramdaspath, Nagpur

Pitney Bowes Software India Private Limited
Plot No 43/1, 43/2, 44/2, Fifth Floor, Panchshil Tech Park
Viman Nagar, Pune- 411014

Prem Marbles Private Limited
Nh8, Amberi, Udaipur

Primarc Projects Private Limited
2nd Floor, 6A, Elgin Road, Bhowanipore, Kolkata

Prodigious Corporate Advisors Private Limited
906 New Delhi House, 27 Barakhamba Road, Delhi

PS Camshafts Private Limited
Flat No. 102 Gayatri Kunj Block B, 326 Tejpur Gadbad, Indore

Purple Business Advisory LLP
Office No.12, 4th Floor, Plot-68, Sai Sadan, Janmabhoomi
Marg, Hutatma Chowk, Fort, Mumbai

R L Kalthia Ship Breaking Pvt Ltd
201-Sarthik Complex, Atabhai Chowk, Bhavnagar-364002

Rahul Decor Private Limited
New Baldev Aptmt, Shop No.2, Vinayak Nagar Road,
Opp. Reliance Energy, Bhyander (W), Mumbai

Religare Health Insurance Company Limited
D3, P3B, District Center, Saket, Delhi

Rothe Erde India Pvt Ltd
Gat No.429, At Post Gonde, Village Wadivarhe, Taluka Igatpuri,
Nashik

RSD & Associates
105 Apra Plaza-A, Community Center, Pitampura, Delhi

Sai Coat Paints Private Limited
Plot No. 1, 2nd Floor, D. No. 2-40/1, Ravi Colony, Main Road,
Kondapur

Sharekhan Limited
10th Floor, Beta Building, Lodha I-Think Techno Campus, Off Jvr,
Opp. Kanjurmarg Station, Kanjurmarg (East) - 400 042, Mumbai





Sunilhitech India Infra Private Limited
602, 6th Floor, Trade Centre, Bandra Kurla Complex, Bandra East, Mumbai

Surya Shakti Industries Pvt.Ltd.
C/O House No. 618, NBS Complex, A B C, G S Road,
Guwahati, Pin-781005

Swagat Housing Finance Company Limited
A1/207.Laram Centre,Opp. Platform No.6, Near Andheri
Railway Station, Andheri (West), Mumbai

Synergy Green Industries Pvt. Ltd.
392, E Ward, Shahupuri, Assembly Road, Kolhapur

Tashi Insurance Brokers Private Limited
305,3rd Floor,Ansal Tower, 38- Nehru Place, Delhi

Tata Autocomp GY Batteries Limited
TACO House, Damle Path, Off Law College Road, Pune

Tata Power Solar Systems Limited
78, Electronics City, Phase-1, Hosur Road, Bangalore

Tata SIA Airlines Limited
Jeevan Bharti, Tower I, 10th Floor, 124 Connaught Circus, New
Delhi - 110 001

Triumph Internatioanl (India) Private Limited
240B Sengundram Village, Singaperumal Koil, Kanchipuram
District, Chennai

Uratom Solar (India) Private Limited
"Yugadhar", 10, Yogi Nagar, Gondal - 360311

Vishva Electrotech Limited
58/4/2A, B.T. Road, Kolkata- 700 001

Whiteinc Advisors LLP
Plot No. B-27, South Extension-II, Delhi

Wipro GE Healthcare Private Limited
No4, Kadugodi Industrial Area, Whitefield, Kadugodi, Bangalore
- 560095



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News From the Regions

EASTERN INDIA REGIONAL COUNCIL

Study Circle Meeting on E-Forms

On 13.3.2015 The EIRC of the ICSI organised a Study Circle Meeting on "E-Forms" at its premises. CS Rupanjana De, Chairperson, Study Circle Committee was the Moderator of the programme. CS Atul Labh, Practising Company Secretary and CS Sikha Gupta, Company Secretary in Employment were present as Special Invitees. Senior members of the profession and a number of students actively took part in the deliberations. The suggestions that came out based on the discussions during the session are as under: 1. Where in any company all the existing directors have resigned and new directors are appointed, there should be a way to file only one e-form DIR-12 to save on the filing costs. Of course this has been partially resolved by the MCA's circular dated March 3, 2015, however the same is possible only after seeking approval of the ROC. 2. The help kit to e-form MGT-10 seems to suggest that reporting under section 93 of Act, 2013 is required when there is a change in shareholding with respect to the individual's shareholding. This is not in consonance with the SEBI Regulations and is too cumbersome for companies to keep track. Hence it was suggested that the formula in the help kit should be changed to calculate change in shareholding only with respect to the paid-up share capital of a company. 3. E-forms under the Act, 1956 allowed any professional to be appointed as a CS. There was no need to state the membership number. However DIR-12 requires a company to state the membership No. of the CS while filing his resignation. This has created problems since DIR-12 cannot be filed for resignation of professionals who are not qualified as CS but nevertheless have been appointed as CS. DIR-12 should be suitably modified to allow filing of resignation of such professionals too. 4. The instruction kit to DIR-3 continues to show that DIR-4 has to be filed whereas the entire text of DIR-4 has been subsumed into DIR-3. DIR-3 should be suitably modified. Similar problem also exists for DIR-6 and DIR-7. 5. There should be a form for intimating change in details of a CS/CFO. DIR-6 is the relevant e-form for directors. Either DIR-6 should be modified or a new form should be introduced to address this issue. 6. MR-1 and DIR-12 can be filed only after the effective date of appointment of director. This means that MR-2 can also not be filed till the time both these forms are filed. This discrepancy should be removed or clarity should be provided that MR-2 can be filed only after DIR-12 and MR-1 have been filed. 7. Form 8 for LLPs still contains the old help kit. This should be updated. 8. In the case of LLPs, an individual cannot act

as a partner and also as the nominee of a body corporate. Similar problem exists for companies also. Such a restriction has not been provided in the Act, 2013. Such a discrepancy should be removed from the e-forms and help kits. 9. Efforts should be made to expedite the process of refunds. From the discussion at the Study Circle Meeting we were intimated that refunds have been pending even beyond 15 months of approval of the e-forms. 10. While converting a private company into a section 8 company, INC-1 still requires the proposed name to contain the phrase 'Pvt. Ltd'. The e-form has to be appropriately amended. 11. Although Act, 2013 requires pledge of shares also to be registered with the RoC, CHG-1 presently does not provide the option of selecting 'pledge'. One is forced to select the option 'others' which going by the provisions of the Act, 2013 is not correct. This will also have implications on the person who is certifying the e-form CHG-1. 12. Since the year 2006 e-forms are filed electronically. However correction of master data is still required to be done offline. This practice should be changed. 13. Companies are still facing problems in filing the excel sheet which is filed pursuant to e-form 5-INV. The error which shows while uploading the excel sheet is the same under all circumstances and the error message does not point out the exact error. 14. Even after approval of e-forms, the status on MCA's site shows as 'under processing'. Since this gives a wrong message, the same should be rectified. 15. The MCA's site still allows users to file e-form 23C. This is in spite of e-form CRA-2 being available for filing. This anomaly needs to be rectified.

During the session the participants present actively involved in the discussions.

Study Circle on Annual Return

The EIRC of the ICSI organised a Study Circle on Annual Return - Section 92(1) of Companies Act, 2013 on 24.03.2015 at ICSI-EIRC House auditorium. The study circle was actively participated by members and students and there were queries, open discussion and feedback coming from all angles.

CS Rupanjana De, Chairperson of Study Circle Committee and moderator of the programme in her welcome address introduced the topic and special guests CS Prem Bafna, Company Secretary in Employment, CS Sudhanya Roy Choudhury and CS Arani Guha, Practising Company Secretaries.

Bafna briefed about the Annual Return and put some light on MGT-7, MGT-8 and MGT-9. Roy Choudhury detailed some points of difference between the current and the erstwhile Annual Return. CS Arani Guha also made some key observations.

During the session with respect to form MGT-7, some of the key areas of concern were: 1. Clarification is required as to whether same PCH can certify both MGT-7 and MGT-8. It was opined that though there is no bar in the law, the same person who is doing the secretarial audit can certify the MGT-8. (SUGGESTIVE: There exists a thin line of demarcation between "certifying and signing"). 2. The penalty for the non-compliance is as heavy as 50,000/- so the fees for filing of Annual Return (36 pages - MGT-7) should also be increased in line





with such heavy fees. There was a debate and some members were of a different view. 3. Management representation of the Board to the Court (Secretarial Audit). 4. In small companies lot of back dating of events takes place which under the new MGT-7 can be caught, matters like attendance of directors, section 186/180 etc. Accordingly the new Act will pave the way for more regularisation. 5. Since section 92(1) requires the AR to be filed in form MGT-7 giving the position as on the close of F.Y (31.03.2015) hence the question arises whether first MGT-7 will pertain to data from last AGM to 31.03.2015 or from 01.04.2014 to 31.03.2015. The study circle stood firm pertaining to the data from 01.04.2014 - 31.03.2015. 6. Presentation of top 10 shareholders: - Who? Are the details of changes to be given for the position as on 31.03.2015 or position from 01.04.2014 and changes therein in the form of a ledger so that the closing balance matches with the position as on 31.03.2015? Also whether the details for the entire year are to be given or just the position at the end of F.Y. - if the shareholder has been separated during the year, i.e. held shares till June 2014, and later sold it so whether this should form part of the AR or one has to disclose the position as on 31.03.2015. 7. For a company which has AGM within 7th April, since the form MGT-7 is not available, then whether to file the form in GNL-2 or wait for MGT - 7 (file with fine). There were lot many questions pertaining to Annual Return but due to paucity of time it was decided unanimously to have a second session on Annual Return in April. At the end of the session De informed that the points discussed in the Study Circle would be sent to H.Q. for further action.

Half Day Workshop on Companies Act 2013: Critical Analysis

The EIRC of ICSI organised a Half Day Workshop on Companies Act 2013: Critical Analysis on 14.03.2015 at ICSI-EIRC House, Kolkata.

CS Sandip Kr. Kejriwal, Vice-Chairman, EIRC of ICSI in his inaugural address said that Companies Act has critical issues, and the notifications issued are confusing. It becomes difficult to comply unless full knowledge is there.

CS Debashis Mitra, (Past Chairman, EIRC of ICAI), Practising Chartered Accountant in the First Technical Session spoke on the recent circular regarding small companies. He said that the intention of legislatures of the definition of a small company is not clear. He then spoke on Section 186 of the Companies Act (Loan & investment by Company) Section 188 regarding Related Party Transactions. He then continued his lucid presentation and said that India do not have a framework for Internal Financial Controls and spoke about the importance of Internal Financial Controls. He spoke on Tax Audit, disqualification of auditors under the Companies Act. He pointed out that today one has to be updated on circulars, notifications and have to advice their clients about the effects and implications of non-compliance. The session concluded after an interactive Question – answer session.

CS Rajesh Poddar, (Past Chairman, EIRC of ICSI), Deputy Company Secretary, ITC Ltd in the Second Technical Session spoke on

“Substantive Comments with respect to Companies Act 2013 and the rules thereunder.” In his Power Point presentation to the gathering he listed out points in relation to Companies Act, 2013 and discussed the relevant sections relating to the points raised and the clarifications and the issues on the points. The points he discussed were loan to employees, loan to subsidiaries, appointment of independent directors, appointment of KMPs, penalties under the Act, sending of financial statements at shorter notice, manner of evaluation of directors, resolutions requiring special notice, corporate Social responsibility, etc. The session concluded after an interactive Question – answer session.

Workshop on CSR – Beyond Charity

The EIRC of ICSI organised a Half Day Workshop on CSR – Beyond Charity in association with Lions Clubs International, MD 322 and ASSOCHAM on 21.2.2015 at The Golden Park, Kolkata.

CS Rupanjana De, Secretary, EIRC of ICSI in her welcome address said that the traditionally Indian Companies are associated with philanthropy and the new Companies Act has put great emphasis on Corporate Social Responsibility (CSR) and the theme has been selected in view of the same. CS Sunita Mohanty, Chairperson, EIRC of ICSI said that CSR can be used interchangeably with ethics, good corporate governance practices. She said CSR is not charity but duty. It empowers companies to make profits responsibly. CS Mamta Binani, Vice-President ICSI said that corporate citizenship plays a great role in CSR. She said that companies should not only produce goods or services but should also be socially responsible. She said that CSR now being monitored by government, investors, public, etc. as an activity.

Debmalya Banerjee, Region Head, Eastern Regional Office, ASSOCHAM said that ASSOCHAM is a chamber of chambers representing 45,000 companies directly and indirectly and the ASSOCHAM foundation is doing great work in CSR and is encouraging Corporate India to participate in CSR activities and also rewards companies for their CSR activities. Lion A.P. Singh Past International Director, Lions Clubs International thanked the ICSI for organising the workshop and hoped that more companies, etc. would participate with Lions for their corporate social responsibility programmes.

Chief Guest Barry J. Palmer, Chairperson, Lions Clubs International Foundation, USA in his address said that Lions is a partner with many foundations like Carter Foundation and is engaged in many philanthropic activities. He said that foundation is a supporter of microfinance in India and the foundation is setting up microfinance units in Eastern India to help women to bring up their own livelihood options.

During the First Technical Session on “CSR in India – An Overview (The Companies Act 2013 – Taxation & Other Aspects)” CS Anjan Kumar Roy, (Past Chairman, EIRC of ICSI), Practising Company Secretary said that CSR is not a voluntary effort now as per the new Companies Act. With the aid of a lucid power point presentation he





News From the Institute & Regions

spoke on Companies Act, 2013 – CSR applicability, CSR committee composition, its role, schedule seven of the Companies Act, CSR expenditure, Taxation aspects of CSR with relation to Companies Act and Income Tax Act, CSR activities and their scope and last the reporting format of CSR activities.

In the Second Technical Session on “Role of NGOs in Implementing CSR” Lion A.P. Singh said that corporates should engage in good community and humanitarian efforts. Corporate governance is about transparency and Companies with good governance practices also involve themselves in CSR activities for communities and the people in those communities. India is a leader in the concept of CSR implementation and CSR activities of Corporates would help in the overall development of the country. Lion Sangeeta Jatia, Past International Director, Lions Clubs International spoke on the charitable activities done by Lions in Eastern and North Eastern India and the involvement of their volunteers in the activities like eye screening camps, health care camps, microfinance units and other humanitarian works and said corporates can partner with Lions for enriching their CSR activities. Neville A. Mehta, International Secretary, Lions Clubs International, ISSAAME, Mumbai in his deliberation said that people in India are philanthropic but don't know how their funds will be utilised in the right areas or domains if they provide their money to NGOs/Philanthropic agencies. He said that India is one of the first countries to enact the CSR part in the Companies Act and Lions Foundation is really optimistic about the involvement of corporates in humanitarian and community activities.

In the Third Technical Session on “CSR - Industry Perspective”, Debmalya Banerjee said that corporates are the real agents of bringing social change in the country and CSR is one of the ways in bringing that change. He said that earlier the government was soft pedalling CSR but the legislative action in bringing in CSR for certain section of Companies have only strengthened the factor of change. He said that MSMEs constitute eighty per cent of the membership in ASSOCHAM but there is no defined structure for them to implement CSR and added that MSMEs should also be brought under the CSR umbrella and would also be interested in bringing change in the communities and locations they have their units.

Budget 2015: Highlights and Impact Analysis

The EIRC of ICSI conducted Half Day workshop on Budget 2015: Highlights and Impact Analysis on 02.03.2015 at ICSI EIRC Building, Kolkata.

CS Sunita Mohanty, Chairperson EIRC of ICSI in her welcome address said that the objective of the Year's Union Budget is to improve quality of life and pass benefits to common man. She said that the Finance Minister has kept the tax slabs intact and have given due consideration to the areas of agriculture, social security, renewable energy, entrepreneurship, creation of skills, network, etc. The introduction of GST from April 2016, postponement of GAAR, elimination of distinction between FDI and FPI, allowing foreign

investment in alternative investment funds, have been announced to streamline the tax regime and to attract foreign investment, a necessary component for achieving desired growth and stability. The speakers on this occasion were Prof (Dr.) Suman K. Mukherjee, eminent faculty, Dean & Principal, Bhartiya Vidya Bhavan Institute of Management Sciences; CA Arun Agarwal, Practising Chartered Accountant and Partner, K. N. Jain & Co and CA Arun Kumar Sabat, Partner, A K Sabat & Co.

Prof (Dr.) Suman K. Mukherjee in his remarks expressed that the Union Budget is a financial statement of the country. In the West, there is no annual celebration like the budget that we have here in India. Prof Mukherjee explained in detail the genesis of the budgetary system of India its effects on the economy thereon till date. He said this is a unique Budget and is pleased with the same and pointed out that fiscal deficit has gone down and revenue up. He said that growth can only be made when we take measures to eradicate poverty, unemployment and closes the gap between rich and poor.

CA Arun Agarwal focused on the indirect tax front in the Union Budget 2015. He said that the Hon'ble Finance Minister has made an increase in service tax rate. He said that the indirect taxes would be generating Rs. 31,000 Crs. He spoke about service tax, its implications, reverse charge, the Swachh Bharat cess, penalties imposed on non-payment or deference in payment of service tax and policy towards litigations in the indirect tax front.

CA Arun Kumar Sabat addressed on the analysis of Direct Taxes in the Union Budget 2015 where he gave a very lively presentation of the impact of the Budget in the direct tax front which affects the middle class and the salaried personnel in a big way. He also spoke on the impact of black money and the consequences of not declaring income correctly to the economy and the business environment as a whole. He used interesting quotes and anecdotes to make the audience understand the tax savings and investment avenues. He pointed out that better compliance leads to higher tax base leading to higher revenue generation and leading to better public image of the country. This was followed by a Question – answer session by the participants.

Empowering Women Together

The EIRC of ICSI to celebrate the essence of Women Empowerment on the occasion of International Women's Day, organised a special programme on 8.03.2015 at The Park, Kolkata. The theme of the programme was “Empowering Women Together”. On this occasion, EIRC of ICSI felicitated women achievers from different walks of life and such delegate female company secretaries who have been members of ICSI for more than 10 years.

CS Sunita Mohanty, Chairperson, EIRC of ICSI in her address said that Women's day is a special annual celebration held since the 1900s and organised all over the world to mark the social, economic and political achievements of women. She said that today in this dynamic business environment, women leaders are taking charge as business leaders, board directors and are building successful





business organisations. She also said that the program was organised to recognise female Company Secretaries and women achievers from different walks of life who have shown exceptional leadership in their professional domain and have empowered other women to march forward to achieve their dreams.

Dr. Thankamani Kutty, renowned exponent of Bharatnatyam & Mohiniattam and Director, Kalamandalam, Kolkata was the Chief Guest of the program. She spoke about her struggle early in life when she moved from Kerala to Kolkata and faced difficulties when she decided to start a dance school on Indian Classical dance. She said that a woman if she wants can do anything and she should not be afraid to follow her dreams. CS Mamta Binani, Vice President, ICSI in her address said that we live in a patriarchal society and women are multi-taskers who balance their jobs and family responsibilities. She said when a woman succeeds in life there are many people who are responsible for the same. She said that pressure due to work or family responsibilities is good as Diamonds are born because of intense pressure.

The achievers who were felicitated on the occasion were Saira Shah Halim, Motivational Speaker, Sima Mukhopadhyay, Theater Personality, Suddha Ma, Religious Preacher and Tanvi Jain, a student of ICSI who secured first position in Professional (New Syllabus) of Company Secretaryship Examination.

The speakers during the technical sessions were CS Mamta Binani, Vice-President, ICSI, who spoke on "Increasing Role of Women in Corporate Ladder". Swati Gautam, Entrepreneur who spoke on "Entrepreneur Skills for a Professional" and CS Veena Hingarh, Joint Director, South Asian Management Technologies Foundation who spoke on "IFRS (INDAS): Implementation and Challenges".

CS Veena Hingarh in her presentation to the august gathering spoke on IFRS Today and Tomorrow, benefits for Companies who adopt IFRS, Industry Impact in relation to the European Union, Indian Implementation and the factors associated with the implementation, the impact of IFRS, effects on Treasury Management, Mergers & Acquisitions, potential tax implications etc. Hingarh in her address pointed out that by 2016 most of the countries will adopt IFRS.

Swati Gautam spoke on her tryst with entrepreneurship as a young woman in the nineties and narrated various upheavals she faced while setting up her own enterprise. She said that the secret was not giving up and for every door that closed, there was another one which opened and there will always be opportunities, the fact is that we should always be ready to grasp it.

CS Mamta Binani spoke on the perception of women in the workplace and how to overcome the hurdles a woman faces in the workplace like gender parity etc. She said that a woman needs to realise that she can overcome the hurdles by realising the facts and working on her own self development, building her own confidence and being strong. She needs to understand that it's by hard work, dedication and self-discipline that anybody - be it a man or woman achieves

success in life. She concluded her lucid presentation with the quote "God helps those who help themselves".

GUwAhATI ChApTER Full Day Workshop and Professional Development Programme

On 28.02.2015 North Eastern Chapter (Guwahati) of EIRC of ICSI in association with Tax Bar Association, Guwahati organised live telecast of Union Budget 2015-16 and Panel Discussion on the subject. The expert commentators were B. L. Purohit, Practicing Chartered Accountant from Guwahati and V. K. Chopra, Practicing Advocate from Guwahati. On the dais were CA Somesh Bose, Chairman, Study Circle Committee, Tax Bar Association, Guwahati; CA B.L. Purohit, Expert Commentator on the occasion; CA Pankaj Khandelia, Secretary, Tax Bar Association, Guwahati; CA Ashok Kumar Agarwala, President, Tax Bar Association, Guwahati; CS Pankaj Jain, Chairman, NE Chapter of EIRC of ICSI, Guwahati; CS Vivek Sharma, Secretary, NE Chapter of EIRC of ICSI, Guwahati and Advocate V.K. Chopra, Expert Commentator on the occasion. Thirty Two CS Members; Twelve PDP Students and Thirty Five Members from Tax Bar Association attended the programme.

CA B.L. Purohit, one of the Expert Commentators of the programme and also a Member of Tax Bar Association, Guwahati apprised the gathering about the Memorandum the Tax Bar Association has submitted before the Hon'ble Finance Minister of India requesting for inclusion of the points mentioned in the Memorandum in the Union Budget 2015-16. The House viewed the live telecast of the Union Budget 2015-16.

CA B.L. Purohit and Advocate V.K. Chopra, Expert Commentators of the programme explained the house every pros and cons of the Budget 2015-16. They explained every merits and demerits of the Budget and also put forward a detailed analysis on the Budget. They also put forward their expert comments on the Budget.

The professionals present on the occasion also put forward their comments on the Budget. The House welcomed the Union Budget 2015-16.

hOOGhLy ChApTER Saraswati Puja Celebration

On 24.1.2015, the Chapter celebrated Saraswati Puja at its premises. More than 30 members, students, office bearers and members of the Managing Committee and Chapter officials attended the programme.

Republic Day Celebration

On 26.01.2015, the Chapter celebrated Republic Day at its premises. More than 40 members, students, office bearers/members of the Managing Committee and officials of the Chapter attended the programme.





News From the Institute & Regions

Half-Day Workshops

On 8.2.2015 the Chapter organised a Half-Day Workshop on Important Provisions Regarding Board's Report and Financial Statements under The Companies Act, 2013 at the Conference Hall of the Chapter office. CS Sachin Chhaparia, Practising Cost Accountant, was the Guest Speaker and the programme was attended by more than 30 members/students and office bearers/members of the Managing Committee.

Again on 22.2.2015 the Chapter organised a Half-Day Workshop for Discussing the New SEBI Insider Trading Regulations, 2015 & Critical Analysis of Related Party Transactions under The Companies Act, 2013 at the ICWAI Bhawan, Howrah. CS Narendra Kumar Singh, General Manager & Company Secretary, Essel Mining & Industries Limited, addressed the gathering as Guest Speaker of the Discussion on New SEBI Insider Trading Regulations, 2015 whereas CS Nidhi Bothra, Executive Vice-President, Vinod Kothari Consultants Pvt. Ltd. addressed the participants as Guest Speaker on Critical Analysis of Related Party Transactions under The Companies Act, 2013. More than 50 members/students and office bearers/members of the Managing Committee attended the Workshop.

Yet again on 01.03.2015 the Chapter organised a Half-Day Workshop at the ICWAI Bhawan, Howrah. CS Ravi Varma, Company Secretary & Manager, Greenacre Holdings Limited, addressed the gathering as Guest Speaker on "Recent Changes in Listing Agreement and Compliance thereunder". More than 45 members/students and office bearers/ members of the Managing Committee attended the Workshop.

Chapter Foundation Day; Women Day Celebrations; Half-Day Workshop and Holi Meet

On 8.03.2015 Chapter celebrated its 8th Foundation Day and International Women Day at its premises with various colourful events. To commemorate the occasion, a Half-Day Workshop was also organised at the Conference Hall of the Chapter Office. Guest Speaker, CS Sumit Binani, Corporate Tax Consultant, addressed on "Sensitization of Law relating to Gender Harassment at Workplace and related Role of Company Secretaries" whereas the other Guest Speaker CS Siddhartha Murarka, Member, EIRC of ICSI, Director, Intelligent Money Managers (P) Ltd., addressed on "Annual Disclosure & Compliance : Board Report, Annual Return and Secretarial Audit". Participants were benefitted by the lucid presentations of the Guest speakers. More than 50 participants attended the programme.

In the evening, Chapter also organised a Holi Meet with the members and students. A large number of members and students participated in the colourful event and celebrated Holi.

RANChI ChApTER

Seminar on Goods & Service Tax

The Ranchi Chapter of EIRC of the ICSI organised a seminar on Goods & Service Tax at Ranchi on 21.03.2015. Suresh Seraphim, Additional Commissioner of Commercial Taxes (Retd.), Jharkhand. The speaker in his presentation threw light on GST which will be replacing the VAT, Excise and all other indirect taxes and shall be having a great change which India will be observing for the first time. He also discussed about the constitutional aspects for implementation of GST in India. Seraphim stressed on active role of CS professionals in promoting the same into the corporate world and advice companies on the implications on any deviation. His address concluded after a question-answer session. Around 100 delegates including students attended the seminar.



NORTHERN INDIA REGIONAL COUNCIL

Meeting of Members for Discussion on Various Issues concerning the Professional Interest

NIRC-ICSI organized Interactive Session with Members on 23.02.2015 at ICSI-NIRC building, New Delhi. CS NPS Chawla, Chairman, NIRC, CS Ranjeet Pandey, Council Member, ICSI, CS Manish Gupta, Vice Chairman, NIRC, CS Dhananjay Shukla, Secretary, NIRC & CS Pradeep Debnath, Treasurer, NIRC were present on the occasion. CS NPS Chawla, Chairman, NIRC informed that the purpose of constitution of the Committee & calling the interactive session was to highlight the issues and concerns being faced by members.

Talk on Union Budget 2015-16

The Institute with NIRC – ICSI organized a Talk on Union Budget on 1.3.2015 at New Delhi. The talk was attended by more than 250 members and students. Pawan K. Kumar, IRS, Commissioner of Income Tax was the Chief Guest. Dr. Girish Ahuja, Eminent Tax Expert, V Lakshmaikumar, Founder & Managing Partner, Lakshmikumaran & Sridharan, Attorneys & Gourav Vallabh, Professor of Finance, XLRI Jamshedpur were the panelists of the programme. CS Vineet Chaudhary, Program Director & Council Member appreciated and welcomed the Budget and emphasized on three Key Values of the Budget 2015-16 i.e. Innovation, Investment & Infrastructure. Pawan K. Kumar said the general purpose of the Budget by explaining that the Budget is a continuous process and implementation is more important than its preparation. V Lakshmikumaran, briefed about the effect of Budget on Indirect Taxes. Gourav Vallabh expressed that the new Budget is in the right path and hoped that it will facilitate entrepreneurs in the days





ahead. Dr. Girish Ahuja discussed at length various tax provisions of the Budget and its impact on the common man and the Nation. He explained and appreciated the tax benefit proposed for assesseees having a girl child and investing under the Sukanya Samridhhi Account Scheme. The investments made in the Scheme will be eligible for deduction under section 80C of the Act, the interest accruing on deposits in such account will be exempt from income tax and the withdrawal in accordance with the rules of the said scheme will be exempt from tax. In view of continuous rise in the cost of medical expenditure, section 80D is proposed to be amended to raise the limit of deduction from 15,000 to Rs. 25,000. Further, the limit of deduction for senior citizens is also proposed to be increased from Rs. 20,000 to Rs. 30,000. As a welfare measure towards very senior citizens, a deduction under section 80D is proposed for any payment made on account of medical expenditure in respect of a very senior citizen, subject to a limit Rs. 30,000.

207th Batch of MSOP

On 3.03.2015 NIRC-ICSI inaugurated its 207th MSOP at ICSI-NIRC Building, New Delhi. CS Narender Kumar, CFO VLCC Health Care Ltd., was the Chief Guest on the occasion.

Holi Milan and Kavi Sammelan for Members

On 5.03.2015 NIRC-ICSI organized Holi Milan and Kavi Sammelan at ICSI-NIRC Building, New Delhi. Hazari Lal Chauhan, Member, Legislative Assembly of Delhi, Patel Nagar Constituency and Ankush Narang, Vice President, Aam Aadmi Party Youth Wing, was the Chief Guest & Guest of Honour respectively.

Conference on Women Safety and Empowerment

NIRC-ICSI organized a Conference on Women Safety and Empowerment on 7.03.2015 at Scope Complex, New Delhi. Justice Mukta Gupta, Hon'ble Judge, Delhi High Court and Pinky Anand, Additional Solicitor General of India were the Chief Guest and Guest of Honour respectively. Ketki Arora, COO, Femella Fashions, Ranjana Agarwal, Director, ICRA Ltd., Vipul Srivastava, Advocate, Anita Sehgal, Life Coach and Clinical Hypno-therapist & Healer, Rajesh Arora, GM (Legal)and CS, Britannia Industries Ltd., Bangalore and Sanjeev Kumar, Director, Ministry of HRD were the Guest Speakers on the Occasion.

Study Session Meetings

NIRC-ICSI organized Study Session Meetings on 15, 20 and 21.03.2015 at Tecnia Institute of Advanced Studies, Rohini, New Delhi; YMCA, New Delhi and CMC Ltd., Janak Puri, New Delhi respectively. CS Ranjeet Pandey, Council Member, ICSI, CS Sharad Tyagi, Seth Dua & Associates & CS T. R. Ramamurthy, Ramamurthy Associates were the speakers respectively. A large gathering was present for the session and participants were able to update their knowledge from the sessions.

ALLAhAbAD ChApTER Seminar

On 15.02.2015 the Chapter organised a seminar on Recent Development in Commercial Laws in India at the Chapter premises. Alok Gangopadhyay, GM (Fin), BCCL, Dhanbad presented his views on the relevance of the topics and addressed the participants and invitees of the Seminar. CS Ritu Ritolia, Secretary discussed the achievements and the issues of the Chapter and requested the Chief Guest for providing a suitable premises for running the Chapter on long term lease basis.

The Technical Sessions started with the deliberation on Goods & Services Tax (GST) by CS Abhishekh Mishra followed by Parul Bhargava's address on E Voting.

A Panel Discussion was organized wherein the participants discussed the matter with great enthusiasm.

Cs Mahua Mazumdar presented her topic on Comparative Analysis on Companies Act 1956 and Companies Act 2013 in a very lucid and elaborate manner followed by the topic Corporate Restructuring addressed by Himanshu Srivastava. The speakers explained the subjects in a very lucid manner which rejuvenated the audience on the relevance of the subject matter. The delegates/students interacted with the speakers after each deliberation and clarified their doubts/queries.

GhAzIAbAD ChApTER Workshop on Secretarial Audit

On 14.03.2015, Ghaziabad Chapter of NIRC of ICSI organized a Workshop on Secretarial Audit at its premises. CS Jitesh Gupta, Practicing Company Secretary was the speaker who deliberated on the mandate of Section 204 of the Companies Act 2013 for Secretarial Audit by PCS in listed companies and other specified companies. He emphasized that secretarial audit should not get confined to mere checking statutory registers, forms and evidence of making compliances. In fact, audit is a post facto exercise comprising detailed verification of formalities, procedures, and maintenance of registers & records etc. to ensure that the company has properly complied with various legal requirements. He also discussed the genesis and concept of secretarial audit, appointment of secretarial auditor.

CS S K Jain, Practicing Company Secretary took the 2nd Technical session. In his address he shared various aspects related to the conduct of the Secretarial Audit including its approach, audit plan, etc. He had thrown light on the expectation to deal with procedural and legal compliances that are expected from a company. He also discussed the format of the secretarial audit report.

The session witnessed an active participation of members. The doubts/queries raised by them were also clarified.





News From the Institute & Regions

Study Circle Meeting on Secretarial Audit

On 28.02.2015, Ghaziabad Chapter of NIRC of ICSI organized a Study Circle Meeting on Secretarial Audit at Ghaziabad. FCS K. K. Singh, Practicing Company Secretary was the speaker who in his address deliberated on various aspects related to Secretarial Audit. He also discussed the scope of secretarial audit, its pre-requisites before commencement of secretarial audit and its limitations. The format of the secretarial audit report was also discussed in detail.

The session witnessed an active participation of members. The doubts/queries raised by them were also clarified.

Vasanti Kavyotsav

On 01.03.2015, Ghaziabad Chapter of NIRC of ICSI organized Vasanti Kavyotsav on the occasion of Holi at Mewar Institute, Vasundhara, Ghaziabad in association with Anandashram. Anandashram is a socio cultural organization headed by Practicing Company Secretary CS Pranav Kumar.

CS Ankit Poddar, Chapter Chairman in his welcome address shared his views about the importance of Holi and wished all on the occasion of Holi. The Vasanti Kavyotsav was attended by many members. At the end of the programme the participants present celebrated Holi with enthusiasm.

SOUTHERN INDIA REGIONAL COUNCIL

Valedictory Session of 21st MSOP

SIRC of the ICSI organized the Valedictory Session of its 21st Management Skills Orientation Programme on 7.02.2015 at ICSI – SIRC House, Chennai. CA V. Murali, Chartered Accountant, Director, Neyveli Lignite Corporation & President Elect of Hindustan Chamber of Commerce, Chennai was the Chief Guest on the occasion. Sarah Arokiaswamy, Regional Director, ICSI-SIRO in her welcome address highlighted the importance of MSOP. While introducing the Chief Guest CS A. Mohan Kumar, Member, SIRC of the ICSI covered 10 positive quotes in life to be successful.

Chief Guest CA V Murali in his address gave tips to be a successful professional in the era of globalization. He stressed on the need for updation of knowledge for becoming a successful professional. He then congratulated the MSOP participants for selecting the right profession and successfully completing the same. The participation certificates were distributed by the Chief Guest.

While congratulating the participants Sarah Arokiaswamy, Regional Director invited them to attend the professional development programmes of the Institute and thereby earn the required credit hours apart from being updated. She also stressed on the need to become Members of CSBF and express their solidarity to the

members in times of distress.

Study Circle Meeting on Role of PCS – Internal Audit

The ICSI – SIRC organized a Study Circle Meeting on “Role of PCS – Internal Audit” on 07.02.2015 at ICSI-SIRC House, Chennai. CA R. Sundararajan, Managing Partner, Sundararajan Associates, Chartered Accountants, Chennai was the speaker who in his address highlighted the scope of Internal Audit under the Companies Act, 2013 available for PCS and benefits and beneficiaries of Internal Audit. He then listed out the companies covered under Internal Audit, Basic Elements of a good Internal Audit Report, Types of Internal Audit, Process of Internal Audit and key requirements of an Internal Auditor. CA Sundararajan also highlighted the Role of an Internal Audit and Duties.

Half Day Seminar on Practical Aspects on Loans and Investment and Ordinary Course of Business in Related Party Transactions

SIRC of the ICSI organized a Half Day Seminar on Practical Aspects on Loans and Investment and Ordinary Course of Business in Related Party Transactions on 14.02.2015 at ICSI – SIRC House, Chennai. CS Lakshmi Subramanian, CS Swetha Subramanian, and CS A.M. Sridharan, Practicing Company Secretaries, Chennai were the speakers.

Speakers of First Session CS Lakshmi Subramanian and CS Swetha Subramanian made Comparison between Section 295 of 1956 Act and Section 185 of 2013 Act and highlighted the Salient features of section 186 and then listed out the debatable issues of section 185 and Penal provisions. In the Second Session speaker CS A.M. Sridharan in his presentation elaborated the Ordinary Course of Business in Related Party Transactions with live examples of case studies.

One Day Seminar on Secretarial Audit

The ICSI – SIRC organized a One Day Seminar on “Secretarial Audit” on 21.02.2015 at ICSI – SIRC House, Chennai. CS Vinayak S Kanvalkar, Past President, The ICSI spoke on importance of Secretarial Audit, CS Ramasubramaniam C, Council Member of ICSI highlighted the development of the Institute.

The speaker of the First Technical Session CS Alka Kapoor, Joint Secretary, ICSI while addressing started with Secretarial Audit applicability and highlighted the penalty for non-compliance and role of Company Secretary. She also went through the Secretarial Audit report format and listed out the issues and other applicable laws on various industries.

Second Technical Session on Secretarial Audit – Companies, 2013 was addressed by CS C.V. Madhusudhanan, Partner, KSR & Co., Company Secretaries LLP, Coimbatore. CS Madhusudhanan





covered the practical aspects of Secretarial Audit, the objective, scope, treatment, liability. He also dealt with Secretarial Audit Report on opinion of specific subjective and judgmental aspects.

CS Savithri Parekh, Chief Legal & Secretarial, Pidilite Industries Ltd., Mumbai handled the Third Technical Session on Secretarial Audit – SEBI. CS Savithri Parekh started her address by stating that with responsibility and power comes greater responsibility. She advised to be an expert on structural level and not on an individual level, and be aware of the application of laws to industries sector, the responsibility of Board and the awareness level of Board. She observed that MR 3 is only a format.

CS Vinayak S Khanvalkar, Past President, The ICSI and Partner, Kanj & Associates, Company Secretaries, Pune speaker of the Last and Fourth Technical Session on Secretarial Audit – Other Applicable Laws – Labour Laws, Environmental Laws, etc. in his address elaborately covered and discussed various Acts applicable under labour laws and environmental laws and compliance requirement for manufacturing unit.

Video Discussion Programme on Drop by Drop

The ICSI – SIRC in association with Madras Management Association organized a Video Discussion Programme on Drop by Drop on 23.02.2015 at ICSI – SIRC House, Chennai. Capt. Manian, Corporate Trainer was the speaker who in address said how tiny prejudices affect morale of employees at workplace drop by drop, the indirect negative remarks of colleagues distract an individual's concentration and affects his/her productivity, misleading remark can be detrimental to one's performance and added that solution is to be considerate and empathetic with others in work, respect every generation of employees and all cultures and learn about other cultures, customs and perspectives of other people.

Professional Development Programme

On 26.02.2015, the SIRC of ICSI conducted Professional Development Programme on "How to face Interview". CS Sujatha P, Senior Vice President & Company Secretary, Cholamandalam Investment & Finance Company Ltd, Chennai and Ramasubramanian V, Deputy General Manager, HR, Rane Engine Valves Ltd, Chennai, were the Speakers. Around 110 members and students attended the programme.

Campus Placement Programme

The ICSI – SIRC organized a Campus Placement on 28.02.2015 at ICSI – SIRC House, Chennai for members and students. Around 70 members and 45 students participated in the event. A total number of 25 Companies and 26 Practising Company Secretaries participated in the campus placement programme for selecting the candidates as Members/Trainees for them.

The Campus Placement was organized by the Placement & Training Committee of the ICSI – SIRC comprising CS A. Mohan Kumar,

Member, ICSI – SIRC as its Chairman, CS S. Sandeep, Practising Company Secretary and CS Dinakar Babu, Company Secretary, Igrashi Motors Ltd., as Members. CS A. Mohan Kumar while addressing the members and students briefed them about modalities of the campus placement. CS S. Sandeep, CS N. Palaniappan, Company Secretary & Sr. Manager – Finance, Blue Dart Aviation Limited, Chennai and CS R. Balasubramaniam, Practising Company Secretary also assisted the programme.

COImbATORE ChApTER

Joint Programme on Union Budget 2015

On 02.03.2015, a Joint Programme on Union Budget 2014 organised by Coimbatore Chapter of SIRC of ICSI, Coimbatore Chapter of the Institute of Cost Accountants of India, and The Auditor's Associations of Southern India was held at Gujarathi Samaj Building, Coimbatore.

First Session on Union Budget 2015 was handled by K.Badri Narayanan, FCA, ACS, Practising Chartered Accountant, Coimbatore. He briefed on an overview of the Budget.

K.Badri Narayanan highlighted the points on how budget is affected on Indian Economy, Indian GDP, annual growth, Sectoral Share in GDP, FDI, Indian Foreign Exchange Trade, Administrative Reforms, Sector Impact, Banking & Financial Service etc.

Second Session on Union Budget 2014 was handled by K Raghuram, Chartered Accountant in Practice, Coimbatore. He elaborated the proposals on Direct Tax and the Financial Bill 2015 - Provisions relating to Direct Taxes.

Third Session on Union Budget 2014 was handled by L Sayee Mohan, ACS, Consultant in Deloitte. He explained Proposals on Indirect Taxes on Union Budget 2015 and also Central Excise, Service Tax and Customs on Budget proposals. The programme was very interactive and the queries raised by the participants were addressed by all the speakers in their respective sessions. The programme was actively attended by 93 participants including thirty-one members of the Institute.

Professional Development Programme on Companies Act 2013

On 23.3.2015 a Professional Development Programme on Companies Act 2013 – Appointment of Directors, Managerial Personnel and Deposits was jointly organised by ICSI-Coimbatore Chapter and ICAI [CMA] - Coimbatore Chapter at CMA Bhawan at Coimbatore. CS C.V. Madhusudhanan, Partner, KSR & Co., Coimbatore was the Speaker. The session was very informative and appreciated by the gathering at large. The programme was attended by total 70 participants including CS Students.





News From the Institute & Regions

hyDERAbAD ChApTER

National Seminar On Secretarial Audit

On 4.03.2015 ICSI-Hyderabad Chapter organized a National Seminar on Secretarial Audit at Marriott Hotel, Hyderabad. CS Atul H Mehta, President of the Institute graced the occasion as Chief Guest. B N Harish, Regional Director [SER], MCA was a Special Guest and CS Ahalada Rao V, Council Member was the Programme Director and CS Issac Raj P.G, Chairman ICSI-Hyderabad Chapter was the Programme coordinator. The programme was inaugurated by President and other dignitaries.

CS Ahalada Rao V, Council Members in his welcome address asked the members to make the best of the opportunities recognized by the statute. He further added that the motto must mainly be for service to stakeholders and industry and not merely for revenue generation. He also emphasized the need for everyone to improve their knowledge as the scope of secretarial audit will be enormous in future.

CS Nagendra D Rao, Chairman of ICSI-SIRC, speaking on the occasion stressed the importance of the mechanism of Secretarial Audit which benefits the management, regulators, investors and stakeholders. He also spoke on the applicability of various laws to the industry. He also spoke on the non-financial aspects of business with an independent objective of improving compliances. He further highlighted that SIRC has taken initiatives regarding secretarial audit through various workshops and programmes with dedicated efforts of professionals and said that they can deliver the best Secretarial Audit.

B N Harish, Regional Director [SER], MCA, Special Guest on the occasion in his address mentioned that the regulators have faith on Company Secretaries and requested the participants to display the professionalism and meet the challenges of New Companies Act, 2013. He further dealt with rules regarding frauds mainly covering management disputes and certification of annual return according to Companies Act 2013. He laid emphasis on Section 185 – loans to directors, 186 – loan and investment by company and 188 – related party transactions. He also spoke about insider trading and amendments in Companies Act, 2013.

CS Atul H Mehta, President, ICSI speaking on the occasion mentioned that he has visited MCA on a number of occasions focussing on Secretarial Audit. The President made a presentation on Secretarial Audit from the Institute's Perspective and also emphasized on Functions and Duties of a company secretary and Dealt with provisions regarding Clause 49 of listing agreement of corporate governance. He further explained Directors responsibility statement section 134 (5), description on applicability and scope of Secretarial Audit and presented the format of Secretarial audit report. He further touched upon many aspects of secretarial audit and emphasized the consequences of non-compliance. The participants were highly impressed by the presentation of the President.

First Technical Session: The First Technical Session was addressed by CS Vikas Y Khare, immediate past Vice-President of the ICSI.

The topic of the session was “Genesis and Concept of Secretarial Audit, Requirement of Section 204 of Companies Act 2013 and Rules there on, Manner of Appointment and Role & Responsibility”. CS P S Shastri, Vice Chairman of ICSI-SIRC acted as the Moderator for the session. CS Mahadev Tirunagari, Vice-Chairman of the ICSI-Hyderabad Chapter was the Co-moderator.

CS Vikash Y Khare spoke at length on the Statutory Framework of Secretarial Audit, Evolution of concept of secretarial audit, Functions of company secretary relating to compliances of provisions under companies Act 2013 (Section 205) and provisions relating to appointment of Secretarial Auditor. He further explained how Secretarial Auditor needs to check the compliances of the company relating to the laws which are applicable to that establishment and on the topic of Process of conducting secretarial audit.

The Second Speaker of the day was Henry Richard, Ex Regional Director of MCA (SER). The Topic was “Diligence Techniques and Methodology, Reporting on Fraud”. Richard spoke on Fraud detection through secretarial audit and also dealt with activities to be done in secretarial audit like certification of E-forms, search reports, compliance certificates, etc. He further laid emphasis on areas of Fraud including insider trading, bribery, corruption, asset misappropriation, etc. He also gave broad description for preparing Form MR3.

The Third Speaker CS Suresh Viswanathan, a Practising Company Secretary spoke on topic “Scope, Regulatory Compliances and Sector wise Analysis (Pharma, Information Technology, Infra and Finance), Whistle Blower and Vigil Mechanism, Adequacy of System and Process”. He had given a broad description on the evolution of secretarial audit and a detailed description on various objectives on provisions, rules and regulations of Secretarial Audit. He dealt with the scope of applicability of various laws on compliances for business/ industries. He also elaborated on the discovery of different applicable laws and on the process of preparation of Secretarial Audit. He further emphasized on fraud reporting and Secretarial Audit periodicity. He further enumerated the benefits of Secretarial Audit and discussed various topics of passive compliance, active compliance and vigil mechanism and whistle blower policies.

Second Technical Session: In the Second Technical Session, CS B Ravichandran spoke on the topic “Audit Practices & Analysis of Financial Statements and Identification of Violation of Corporate Laws”. CS R Ramakrishna Gupta, Member of ICSI-SIRC was the moderator for the Second Technical session and CS Ravi Kumar Mandavilli, Treasurer of ICSI Hyderabad Chapter was the Co-moderator.

CS B Ravichandran explained to the audience about analysis of financial statements and violations of corporate laws and Secretarial audit as an audit to check compliance of various legislations. He further explained the provisions regarding secretarial audit and how only a practicing company secretary can do secretarial audit. He also covered the topics regarding investment permissibility.





CS R Ramakrishna Gupta has given his concluding remarks and CS Ravi Kumar Mandavilli has given his vote of thanks for the technical session.

Third Technical Session: In the Third Technical session, CS L. Jayaraman spoke on “Loans and Related-Party Transaction and Audit Approach”. CS Kavitha Rani Sakhamuri was the Moderator and CS Rahul Jain was the Co-moderator of the Session. CS L. Jayaraman dealt with Sections 185 and 188 of Companies Act 2013 i.e., Loans to Directors and Related-Party Transaction. He further made a comparative study of both the sections of Companies Act 1956 and 2013. He further explained to the participants regarding change in the definition of ‘Relative’. He also explained about Supply of Goods to Director on credit and acquisition of Securities of a body corporate. He also dealt with board meetings and postal ballot and gave a broad description about transactions, approvals and exemptions under Section 188.

ICSI President’s Meet with Members

On 4.03.2015, a President’s Meet with Members was organized by the Chapter. CS Atul H. Mehta, President, ICSI discussed Secretarial Audit and their relevant Certification courses for quality performances. He further stated that the proposal of dispute regulation mechanism in the budget is the major area for the profession. He also spoke on the importance of professional appearance in front of the Tribunal regarding appeals, disputes etc. He further mentioned that there should not only be drifting of focus from Corporate Laws but we should go beyond like having workshops for various other laws. He also mentioned about his discussion in person with U. K. Sinha, Chairman, SEBI regarding the regulator ship for Secretarial Audit.

Members raised various queries like membership fees, infrastructure to conduct audit, two way communications for queries rather than one way. In addition queries like, Governance relating to Compliances to act as a Leader was also discussed in detail by the President. Further, the interactions included submission of reports of standards on Board meetings and Shareholders meetings as well as introduction of different apps for notifications, updates, alerts etc. for providing quick information. The discussions on E-voting, Mobile voting in the future were also part of the interactions.

KOChI ChApTER

Joint Professional Development Programme on Union Budget 2015-16

Kochi Chapter of SIRC of ICSI in association with The Cochin Chamber of Commerce and Industry (CCCI) and The Institute of Cost Accountants of India, Cochin Chapter (ICoAI) organised a session on Post Budget Analysis on 4.03.2015 at Panampilly Nagar, Cochin.

Dr. S. Narayan IAS (Retd.), Former Economic Adviser to the Prime Minister of India was the Guest Speaker. Dr. Naryan commenced the session and said that the Budget clearly states the intent of the Government at the Centre. He said that the Budget presented by the

Finance Minister has adopted a new approach and the Budget had taken on a different structure from what it has been over the years. Even then, he was of the view that the Indian approach to the Budget is 10-15 years old when compared with what happens in Budgets in the US, the UK and other countries. Dr. Narayan, evaluated that the fund allocation in the Union Budget seemed to be inadequate for the implementation of the announced programmes. He said the mismatch could affect the performance and delivery of the budget promises, including the proposed ‘Make in India’ campaign. He opined that the Government must focus on the revenues and they need to work towards a balance in the tax-GDP ratio. The budget had spelt out a good design for projects related to infrastructure, agriculture and social welfare. The success of the Budget would depend on its effective implementation, he said. The programme was well attended by the members of ICSI, ICAI & CCCI.

Joint Professional Development Programme on Enterprise Risk Management

Kochi Chapter in association with the Cochin Chapter of Institute of Cost Accountant of India (ICAI-CMA) organized a PDP on 7.3.2015, on ‘Enterprise Risk Management (ERM)’ at CMA Bhavan, Kloor, Cochin. Resource Speaker, CMA. D. Sundaram, Managing Director of M/s TVS Capital Funds Ltd. and also Ex-CFO of Hindustan Unilever Limited in his address described different types of risks prevailing in the corporate world. He also explained about the building blocks of ERM, how to identify risks and what all things should be kept in mind while preparing the risk mitigation templates in day to day corporate affairs. He also shared the various formats of risk matrices which would help in calculating the probability of a prospective risk and its level of impact in the business entity. He finally explained the various risk mitigation techniques so as to prevent, eliminate or reduce the risk, as the case may be. It was elucidated that risk management is never a dampener of any business, but a vital part of the business management process.

Joint Professional Development Programme on Annual Reports and Investment Strategies

On 7.2.2015 Kochi Chapter of SIRC of ICSI organised a Professional Development Programme in association with Cochin Chapter of the ICoAI and NSE on Annual Reports and Investment Strategies. The programme was inaugurated by Deepesh M. U., Asst. General Manager, SEBI, Kochi. Ravi Jain, NSE, Kochi handled the session on Investor Awareness. He explained different types of investment schemes, its merits and demerits, rising instances of fraudulent investment schemes, how one can be safe from these frauds, etc. CA S. Ananthanarayanan, Capricorn, Hyderabad, handled the session on Annual Reports and Investment Strategies. He narrated the characteristics of a good annual report, what all things must be included in the report, what are the factors to be kept in mind while preparing an annual report, etc. He clearly mentioned the professional competence in preparing an annual report and objectivity of the





News From the Institute & Regions

professionals. He also spoke about different investment strategies suitable to a variety of entrepreneurs.

SALEmChApTER

Study Circle Meetings

On 20.2.2015, Salem Chapter of SIRC of ICSI organized a study circle meeting on Chapter III, Prospectus and Allotment of Securities under the Companies Act, 2013. During the meet, Members and Students discussed briefly how the Companies Act, 1956 differs from the Companies Act, 2013. The study circle also discussed prospectus, public offer of securities, the procedures, etc. CS Solaiyappan. S, Chairman and CS Santhanam. N, Secretary of the Chapter led the session.

On 6.3.2015, the Chapter organized another study circle meeting on Independent Directors and Small Shareholders Directors under the Companies Act, 2013. During the meet, Members and Students discussed briefly the qualification, appointment and disqualifications of the Independent Directors. Further the session continued with eligibility of Small Shareholder Director, procedures followed by rules thereunder. CS Solaiyappan. S, Chapter Chairman led the session.

International Conference at Vivekanandha College of Arts and Sciences for Women

On 26.2.2015 the Department of Commerce and Management of Vivekanandha College of Arts and Sciences for Women and Vivekanandha College for Women, Tiruchengode in association with the Salem Chapter of the ICSI conducted 4th International Conference on Innovative Practices in the Contemporary Business Scenario.

Professor CA V. Sreeraman in his inaugural address emphasised that in the ever changing world, innovation is the only key which can sustain long run growth of the country and more and more firms are realising the importance of innovation to gain competitive advantage and also in the modern era of globalisation, the business has witnessed development in all disciplines.

Dr. Moges Tadesse, Professor of Ambo University, Ethiopia, East Africa in his key note address specified that new innovative ideas and ventures are coming day by day in the business scenario and business is evolving at a fast pace due to changes in technology, consumer preference and taste etc. and further the challenges for corporate sectors never ends and have to continuously innovate, but one should take care of the green peace movement.

Dr. S. Seethalakshmi and Dr. V. Kumaravel spoke on the theme. The conference was attended by around 1000 persons including students and research scholars.

National Seminar on Companies Act, 2013

On 28.2.2015 the Department of Corporate Secretaryship, Alagappa University, Karaikudi in association with Salem Chapter of SIRC of ICSI conducted a National Seminar on Companies Act, 2013 in the Convocation Seminar Hall, Alagappa University, Karaikudi.

CS Dr. V. Balachandran, Professor & Head, Department of Corporate Secretaryship, Alagappa University, Karaikudi in his welcome address, pointed out the close linkage of Department of Corporate Secretaryship, Alagappa University with ICSI, New Delhi way back from 1987 onwards. He spelt out the contribution of senior members of ICSI for the enriched curriculum of MBA (Corporate Secretaryship) being offered by Alagappa University. Further, he appreciated CS S. Solaiyappan, Chairman of Salem Chapter for having considered this joint programme with Alagappa University, Karaikudi.

R. Rajagopalan, DGM & Head – Legal, The Karur Vysya Bank Ltd., Karur in his inaugural address enumerated the evolution of Companies Act, Key amendments and the new concepts introduced in the Companies Act, 2013.

Dr. M. Selvam, Chairperson, School of Management, Professor & Head, Department of International Business & Commerce explained the significance of Companies Act, 2013, in the present liberalized/globalized scenario.

In the First Technical Session, CS S. Solaiyappan, explained the distinct features of Companies Act, 2013 and brought out clearly the provisions of the new Companies Act comparing with erstwhile Companies Act of 1956.

CS N. Santhanam, Company Secretary and formerly Senior Manager (Finance & Accounts), Salem Steel Plant (SAIL), Salem spoke about the role of Key Managerial Personnel (KMP) under the Companies Act, 2013 in the Second Technical Session.

In the Third Technical Session, Dr. M. Selvam, Chairperson, School of Management, Professor & Head, Department of International Business & Commerce explained about the significance of corporate governance and the need to provide transparency and disclosure in annual reports under Companies Act, 2013 while CS T. Balasubramanian, Practising Company Secretary from Chennai discussed the practical aspects of Company Meetings in the Fourth Technical Session.

CA S. Muralidaran, Chartered Accountant, Karaikudi in his valedictory address explained the rationale behind the introduction of Companies Act, 2013, Investor protection, Acceptance of deposits by companies, composition of Board and evaluation of board of directors, increased role of professionals, namely, Chartered Accountants, Company Secretaries under the Companies Act, 2013. About 125 post graduate students of Corporate Secretaryship/Commerce/Business Administration from Karaikudi, Chennai, Coimbatore, Madurai, Puduchery and Bangalore and faculty members participated in the seminar. The participants thanked the organisers for the successful conduct of the seminar and after participants' observation, the valedictory function came to an end.



ThIRUvANANTThApURAm ChApTER

Seminar on Overseas Direct Investment

ON 19.2.2015 a seminar on Overseas Direct Investment organised by the Chapter was inaugurated by Suresh Babu, CEO and MD Vizhinjam Sea Port. The Technical Session was led by Salim Gangadharan – Ex Regional Director-RBI. The programme witnessed a crowd of over 120 persons.

Seminar on Union Budget 2015

On 9.3.2015 a Seminar was organised on Union Budget 2015. Faculty from PWC, Bangalore led the session. Around 120 participants attended the programme. ICAI-CMA also supported the programme with their active participation.

CS Togetherness Summit

On 15.3.2015 CS Togetherness Summit was organised at Trivandrum Shangumugham beach for integrating members and students. Around 40 participants turned up early morning and had a memorable morning of fun filled games.

vISAKhApATNAm ChApTER

Half Day Seminar on Secretarial Audit an Overview

On 19.2.2015 a Half Day Seminar on Secretarial Audit an Overview was organized by Visakhapatnam Chapter of SIRC of the ICSI at its premises. CS J Sundharesan, PCS- Banagalore was the speaker. The Speaker started with Concept & Convention of Audit, mandatory laws, recommended laws, IT Services, Risk perspectives, Evaluating evidence and ended with standards in Communication. The session was lively, interactive and well received by the Members present and their doubts were clarified.

Half Day seminar on GST- Recent Changes, Service Tax – Recent Changes

On 15.3.2015 a Half Day Seminar on GST- Recent Changes, Service Tax – Recent Changes was organized by Visakhapatnam Chapter of SIRC of the ICSI at the Chapter Premises.

The First Session on GST- Recent Changes was addressed by Dr. KV Mohanarao, Superintendent of Central Excise, Visakhapatnam. The Speaker started with what is VAT & GST, How to know about GST, forms and substance, Why we need GST? And ended

with what are the issues to be resolved. The session was lively interactive and well received by the Members present and their doubts were clarified.

The Second Session was on Service Tax – Recent Changes. CA CS Chalapathy Rao M was the speaker who started with Recent Budget Amendments with increase of service tax, review of negative list, review of exemptions, new exemptions, section 76 reduced penalty, section 78 penalty for cases involving fraud and ended with abatement of conditions modified. The session was lively, interactive and well received by the Members present and their doubts were clarified.



WESTERN INDIA REGIONAL COUNCIL

National Conclave on Critical Issues of Securities Laws

On 13.3.2015 at the National Conclave Rishikesh Vyas, Chairman, WIRC in his deliberations briefed the audience on the emerging opportunities for the company secretaries on the securities laws. He further expressed the Economy to grow and flourish and for the business to grow it requires supply of capital and the same is provided by the capital market in any progressive economy. He further said that corporate laws are going through see-saw change and it is very fundamental for the company secretaries to be aware of the changes which are taking place because there are strong liabilities required.

Atul Mehta, President, ICSI while addressing expressed that it is very fundamental for the company secretaries to be well versed with all aspects of corporate laws and recent coverations of corporate laws and securities laws. This is more so important to have a compliance with the securities laws because there is dual impact while dealing with them.

Atul Desai, Senior Partner, Kanga & Company the Guest of Honour of the day informed the delegates that for the compliance officer it is paramount duty to ensure they perform the duty in impartial manner and ensure that there is proper compliance and governance as required by the Regulations.

Ashish Bhakta, Partner ANB Legal briefed the audience on importance of shareholders agreement and how it is very fundamental or very crucial business document while entering into any collaboration and partnership.

Suhail Naithani, Associate Partner, Economic law Practice in his interaction with the delegates expressed his views on the critical aspects of the new insider trading.

Savithri Parekh, Chief Legal and Secretarial, Pidilite Industries



Limited, informed the audience on the crucial aspects of the Companies Act and how the provisions of the Companies Act are interlinked with Securities Laws. They include Related Party Transactions, Independent Directors, Audit Committee, etc.

Prem Rajani, Managing Partner, Rajani, Singhania & Partners, Solicitors and Advocates informed the audience on the key aspects of the SEBI Takeover Code.

Sutanu Sinha, CE & OS of the institute stated that with the advent of Capital Markets the Securities Laws has come into existence which has raised the Compliance and Governance standards.

At the end there was also a panel discussion wherein the panelists were: Prem Rajani, Managing Partner, Rajani, Singhania & Partners, Solicitors and Advocates, CS Savithri Parekh, Chief Legal and Secretarial, Pidilite Industries Limited, CS Parvatheesam Kanchinadham, Company Secretary Tata Steel, CS Yogesh Chande, Associate Partner Economic Law Practice.

CS Rishikesh Vyas was the Moderator of the Panel discussion, he initiated the comments of the panelists.

bhAyANDER ChApTER

Full Day Seminar on New Listing Agreement & Various Compliances

On 15.3.2015 the Chapter of WIRC of the ICSI organised a full day seminar on New Listing Agreement & Various Compliances at Bhayander(W). the seminar discussed the topic in four technical sessions as under: Session 1: This session was delivered by CS K Venkataraman, on "Listing Agreement". Session 2: This Session was delivered by CA Anish Mehta on "Tax Implications for Private Equity, Amalgamation, and Merger & Demerger". Session 3: This session was addressed by CS Kiran Thacker on "Secretarial Audit & SEBI Insider Trading Regulations". Session 4: This session was dealt with by Dr. Samta Jain on "Soft Skills, like Body Language & Communication Skills (written & Verbal)".

INDORE ChApTER

In House Discussion on PCS Guidelines & Publication

On 27.02.2015, Indore Chapter of WIRC of ICSI organized an In-house Discussion on PCS Guidelines & Publications. CS Ashish Garg apprised about the agenda of the meeting & discussed Various Guidelines of ICSI, Review of Institute's Publications, Representations before various Ministries/Departments/State Governments. He also invited suggestions from members present in the meeting. The programme was attended by around 25 Members.

Live Telecast of Union Budget 2015

On 28.02.2015 Indore Chapter of WIRC of ICSI arranged a live

telecast of Union Budget 2015. The programme was directly telecast through Lok Sabha Television. Members attending the same also discussed various provisions and Budget highlights during the programme.

Talk on Union Budget-2015

On 04.03.2015 the Indore Chapter of WIRC of ICSI with the Indore Branch of ICAI & Tax Practitioners' Association, Indore organized a half-day programme on A Talk on Union Budget 2015. The Speaker of the First Technical Session was Adv. Shailesh P Seth, Mumbai who apprised the participants about Indirect Taxation in Union Budget 2015.

In the Second Technical Session CA Rakesh Gupta, Senior Advocate, Mumbai was the speaker who apprised about Direct Taxation in Union Budget 2015. The programme was attended by around 50 Members and 45 Students.

Discussion on Secretarial Audit

On 27.02.2015, Indore Chapter of WIRC of ICSI organized an in House Discussion on Secretarial Audit. CS Deelip Kumar Jain and other senior members of the profession discussed about various aspects of Secretarial Audit. The program was attended by around 27 Members.

Program on Women's Day on Colours of Life

On 8.3.2015 Indore Chapter organized a Women's Day Special Programme on "Colours of Life" at Indore. The programme was coordinated by CS Pinky Shrivastava and CS Deepika Kataria. Chief Guest of the programme was Usha Thakur, MLA, Indore-3. The programme was attended by 34 lady members and students.

pUNE ChApTER

42nd Foundation Day Celebration

Pune Chapter of WIRC of ICSI celebrated its 42nd Foundation Day at YASHADA, MDC Auditorium, recently. This was a unique opportunity for the Members to share thoughts and ideas and to get connected with the Chapter and its activities. Members and students from Pune take pride in being associated with the Chapter and the Pune Chapter believes that events like the Foundation Day, Sports Week act as a perfect channel for ICSI brand building and team building.

There was a felicitation of the rank holders from the Pune Chapter for the examinations conducted by the ICSI in December 2013, June 2014 and December 2014. The winners for the Best Articles in "Sanhita", a monthly magazine of Pune Chapter during Calendar Year 2014 and the winners of the Sports Week which was celebrated during March 2015 as a part of foundation day activities. Pune Chapter staff and OTC Faculties were also honoured on the occasion.

CS Atul Mehta, President, The ICSI and the Chief Guest of the day shared his thoughts which were truly inspiring and motivating for the forum. He informed those present about the new initiatives being undertaken by ICSI. He also shared various compliances required under the Companies Act, 2013 viz. provision of women director in every company, mandatory Secretarial Audit, CS's roll as compliance officer.

Thereafter CS Makarand Lele, Central Council Member, CS Rishikesh Vyas, Guest of Honour, WIRC of ICSI and CS Amit Atre, Chairman, Pune Chapters shared their thoughts from the dais and briefed the audience about the initiatives being taken in their respective areas.

This was followed by a cultural programme performed by the Members of the Chapter.

RAJKOT ChApTER

Seminar on Secretarial Audit & its Exuberant Responsibility to Energize Company Secretaries

On 7.3.2015 Rajkot Chapter of WIRC of ICSI organised a full day Seminar on Secretarial Audit & its Exuberant Responsibility to Energize Company Secretaries. CS Atul Mehta, President, ICSI was the Chief Guest and Ashok Kumar Dixit, Director, Discipline, ICSI, Dr. Sudhir Kumar Dixit, Jt. Secretary, Academics, Professional Development & Perspective Planning, ICSI and CS Devesh Pathak, Practising Company Secretary, Vadodara were also present.

CS Atul Mehta thanked the Rajkot Chapter for inviting him to the seminar. He informed about the growth of students and members during the year. He also informed that the Institute is exploring possibilities to open Chapter offices at Dubai and Singapore in the near future.

First Technical Session on Secretarial Audit: In the First Technical Session CS Atul Mehta discussed the material aspects relating to secretarial audit, e.g. its applicability, the need of secretarial audit, signing and scope of the Company Secretaries.

Second Technical Session on Directors Report: CS Devesh Pathak, in his address explained about the rules and regulations relating to Directors' Report. He also discussed the precautions to be taken by the Company Secretary while preparing the Draft Directors' Report.

Third Technical Session on Disciplinary Mechanism in ICSI: A K Dixit in his address explained and made aware the code of conduct and also briefed about the Company Secretaries Act. He discussed practical examples regarding misconduct by the company secretary whether in employment or in practice.

Fourth Technical Session on Roles of Directors in Private Limited Company: Dr. S K Dixit the speaker of the session informed about the rules and regulations to be followed by the directors as well as the company secretary. He also briefed the members about penalty on Company and directors of Company for non-compliance of the said provisions. CS Devang Vyas, co-ordinated the programme.

Seminar on Women's Day

On 7.3.2015 Pune Chapter of ICSI organized A Full Day Seminar on Women's Day on the theme Women Empowerment at Pune. Dr. Sadhana Khurd, Gynecologist and Freny Tarapore were eminent faculties of the programme. The programme was attended by 82 delegates from Pune, Mumbai and out of Maharashtra. Four PCHours were awarded to members who attended the seminar and students were awarded eight PDP for the same.

Seminar on Risk Management and D & O Insurance

On 14.3.2015 Pune Chapter organized a Full Day Seminar on Risk Management & D & O Insurance at Pune. CS G P Kulkarni, Company Secretary, Thermax Ltd. and Gisha George, Head Liability, Bajaj Allianz were the faculties for the seminar. The programme was attended by 87 delegates. Four (4) PCH were awarded to members who attended the seminar and students were awarded eight (8) PDP for the same.

Appointment

rEqUlrEd COmPAnY SECrEtAry

A full time qualified Company Secretary proficient in English and well acquainted with Company Law and legal matters with a minimum experience of 3 years, is required for four Private Limited Companies in Hyderabad, Telangana.

Interested Candidates may send in their applications with detailed resume giving information about professional experience to the following address:

The Manager, Human Resources,
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COMPANY SECRETARIES BENEVOLENT FUND



CSbf CUItUrAI EvENING hElD ON 14th mArCh, 2015 At NEw dElhI

With a view to spread awareness of Company Secretaries Benevolent Fund and further strengthen the corpus of the Fund, third CSBF Cultural Evening was organised by the Managing Committee on 14th March, 2015 at the Air Force Auditorium, New Delhi in the presence of various dignitaries including Hon'ble Mr. Justice Jayant Nath, Delhi High Court, Hon'ble Mr. Justice Dilip Raosaheb Deshmukh, Chairman, Company Law Board, Shri P.K. Malhotra, Secretary, Ministry of Law & Justice, Shri C S Verma, Chairman, Steel Authority of India, Shri U.C. Nahta, Member, Competition Commission of India, Shri Dhan Raj, Member, Company Law Board, Shri M.J. Joseph, Director General, Bureau of Indian Standards, Shri A. K. Chaturvedi, Regional Director (Northern Region), Ministry of Corporate Affairs and Shri Jaikant Singh, Addl. Director General, DGFT. The programme was also graced by various other senior functionaries from Company Law Board, Competition Commission of India, Ministry of Corporate Affairs, SAIL and past Presidents of the Institute, CS R. Krishnan, CS G B Rao, CS O.P. Dani, CS Virender Ganda, CS Pavan Vijay and CS Nesar Ahmad. The Inauguration was followed by invocation by the Group of CS Simran Jeet Singh, Shri Chandan Rastogi and others.

CS Atul H. Mehta, President, ICSI and Chairman, Company Secretaries Benevolent Fund, in his address appreciated the efforts of the Core Group in organizing the Cultural Evening.

CS Harish K Vaid, Chairman, Core group for the Event, in his welcome address expressed satisfaction that the efforts of the Managing Committee during last few years has brought out much wider awareness about the Fund which has also helped in increasing the corpus of the Fund. He appreciated the collective efforts so far put in to mobilize a corpus of Rs.13 Crores with a CSBF membership base of 10,338 out of 33,600 members of ICSI. He happily announced the mobilisation of over Rs.25 lacs during this event besides addition of 25 members to the Fund. He expressed confidence that such efforts will continue to bring remaining members under the cover of CSBF so that the benefit of the Fund is extended to the family of each and every member in times of need. He also appreciated the efforts made by the Secretariat under the able leadership of CS Sutanu Sinha, Chief Executive and Officiating Secretary, the ICSI.

A Scheme of offering financial assistance to new members of the Institute to become members of CSBF, with the support of Jaypee Group, was also made available during the event.

The prime attraction of the Cultural Evening was the mono act musical play in Hindi 'Vivekananda' enacted by eminent actor, singer and theatre personality Padma Shri Shekhar Sen, Chairman of the Sangeet Natak Akademi. This two hour long play was punctuated with the stories of his childhood, impact of religion, eagerness to find God and the making of Swami Vivekananda, his unforgettable Chicago speech, which brought him in limelight in 1893, his love for humanity & seeing the world as one family. The mesmerizing presentation enlightened the audience with Swami Vivekananda's revolutionary thoughts and brought live the era of Swami Vivekananda.

CS H S Grover, Vice Chairman of the Core Group for the Event, coordinated the release of the Souvenir on CSBF at the hands of Hon'ble Justice Jayant Nath. CS Poonam Ahuja compered the programme. CS Sutanu Sinha, Chief Executive and Officiating Secretary, ICSI, proposed a vote of thanks.

The gathering of about 800 people comprising members of the Institute alongwith their families enjoyed the Cultural Evening which was followed by dinner.





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Statutory body under an Act of Parliament

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E-Mail : info@icsi.edu Website : www.icsi.edu

CAREEr OPPORtUNITIES

The ICSI, a premier professional body constituted under an Act of Parliament, invites applications for the following posts at its Headquarters, Regional Offices & ICSI-CCGRT, Navi Mumbai :-

Name of the Post	Pay Band & Grade Pay (Rs.)	Max. Age (as on 01.04.2015)	Total No. of Posts
DEAN (equivalent to Joint Secretary- on Contractual/ Assignment/ Retainership basis for two years at CCGRT, Belapur, Navi Mumbai)	37400-67000 with Grade Pay-10000/-	45 years	1
Joint Secretary (IT)	37400-67000 with Grade Pay-10000/-	45 years	1
Joint Secretary (Finance & Accounts)	37400-67000 with Grade Pay-10000/-	45 years	1
Director(Law)/ Joint Secretary (Law) Director	37400-67000 with Grade Pay-8700/- 37400-67000 with Grade Pay-10000/-	45 years	1
(Placement & Industry Interaction) Director (Recognitions)	37400-67000 with Grade Pay-8700/-	45 years	1
Assistant Director (Finance & Accounts)	37400-67000 with Grade Pay-8700/-	45 years	1
Assistant Director (Academics)	15600-39100 with Grade Pay-5400/-	35 years	6
	15600-39100 with Grade Pay-5400/-	35 years	4

For further details viz. qualification, experience, procedure for submission of application, etc., please visit our website www.icsi.edu/career with effect from 7th April, 2015. Interested candidates must **apply only through electronic application form (On-line)**. Last date for submission of application (On-line) is **24th April, 2015**. Reservation policy will be applicable as adopted by the "ICSI" in its Service Rules. The "ICSI" reserves the right to increase/decrease or even not to fill up any posts as per its requirement.

(P K Grover)
Joint Secretary (SG)-HR



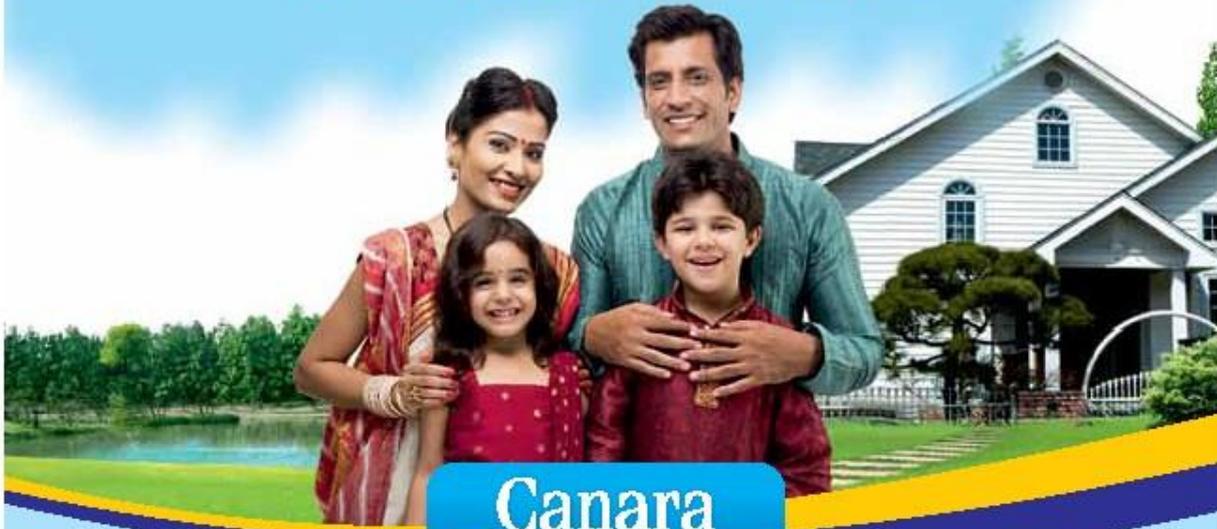
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Our Members

Obituaries

“Chartered Secretary” deeply regrets to record the sad demise of the following members:

Shri V. LAKSHMINARAYANAN, (14.03.1928 – 21.01.2015), a Fellow Member of the Institute from Chennai.

Shri BRIJMOHAN RAI BAHL, (19.12.1936 – 24.01.2015), a Fellow Member of the Institute from Mumbai.

Shri P. BHASKARANARAYANA, (12.02.1955 – 21.10.2014), a Fellow Member of the Institute from Hyderabad.

Shri Y RATAN KUMAR, (15.07.1952 – 14.03.2015), a Fellow Member of the Institute from Hyderabad.

Shri G. N. NAGARAJA, (22.12.1932 – 17.07.2014), a Fellow Member of the Institute from Bangalore.

Shri K. R. SUBRAMANIAN, (23.07.1936 – 17.03.2015), a Fellow Member of the Institute from Chennai.

Shri K. GOPALASWAMI, (28.06.1952 – 16.03.2015), an Associate Member of the Institute from Chennai.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed souls rest in peace.

Appointment

rEqUlrEd

A COmPANY SECrEtAry

Company Secretary required for “Himadri Foods Limited”, a company having office at Mumbai. The Applicant should be an Associate Company Secretary with 1-2 years of relevant working experience.

Please apply in confidence stating age, qualifications, experience and details of salary drawn and expected, to Email: info@himadrimasala.com or hr@himadrimasala.com

AttENTION mEmbErS!

thE SEXUAI hARASSmEnt Of wOmEN At thE wOrkPIACE (PrEvENTION, PrOHlbtION & rEdrESSAI) ACT, 2013

(disclosure requirements under the Annual report of Companies)

The Sexual Harassment of Women at the Workplace (Prevention, Prohibition & Redressal) Act, 2013 mandates that all companies need to make necessary disclosure about compliance with the said law in their Annual Report as per section 22 and 28 of the said Act which is reproduced for your ready reference:

“Section 22: Employer to include information in Annual Report

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the Annual Report of his organization or where no such report is required to be prepared, intimate such number of cases if any, to the District Officer.

Section 28: Act not in derogation of any other law

The provisions of the Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.”

Accordingly companies would need to incorporate the said

information in their Annual Report to be filed with Registrar of Companies for the year ending 31st March, 2015. The disclosure can be made as follows:

“Disclosure under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

“The Company has in place an Anti Sexual Harassment Policy in line with the requirements of The Sexual Harassment of Women at the Workplace (Prevention, Prohibition & Redressal) Act, 2013. Internal Complaints Committee (ICC) has been set up to redress complaints received regarding sexual harassment. All employees (permanent, contractual, temporary, trainees) are covered under this policy.

The following is a summary of sexual harassment complaints received and disposed off during the year 2014-15

- No of complaints received:
- No of complaints disposed off:”



I ABIDE BY THE LAW. SO DOES MY COMPANY.

Over one million companies in the country are custodians of huge resources of the society and public. They drive the growth of the economy. It is, therefore, imperative that their operations should be so carried out that they exist forever to contribute to prosperity of the society and the economy even as they balance the interests of various stakeholder. This requires care for and adherence to law and justice, ethics, compliance, governance, risk management, conflict resolution etc. A Company Secretary, who is a regulated professional, ensures just that.

I AM...

- ... A Key Managerial Personnel
- ... An expert in Corporate Laws, Securities Laws, Capital Market and Corporate Governance
- ... Advisor to the board of directors on best practices in Corporate Governance
- ... Secretarial Auditor
- ... Managing all regulatory compliances of the company
- ... Corporate planner and strategic manager

...I am a .
Only I do what I do.



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